

**CHAPTER 1077**  
**PUBLIC RETIREMENT SYSTEMS**  
**S.F. 2411**

**AN ACT** relating to public retirement systems and providing implementation, applicability, and effective dates.

*Be It Enacted by the General Assembly of the State of Iowa:*

DIVISION I  
PUBLIC SAFETY PEACE OFFICERS' RETIREMENT,  
ACCIDENT, AND DISABILITY SYSTEM

Section 1. Section 97A.5, subsection 1, Code 1999, is amended to read as follows:

1. BOARD OF TRUSTEES. A board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system is created. The general responsibility for the proper operation of the system is vested in the board of trustees. The board of trustees is constituted as follows: The commissioner of public safety, who is chairperson of the board, the treasurer of state, ~~and an actively engaged member of the system, to be chosen by secret ballot by the actively engaged members of the system, a retired member of the system, to be chosen by secret ballot by the retired members of the system, and a person appointed by the governor. The person appointed by the governor shall be an executive of a domestic life insurance company, an executive of a state or national bank operating within the state of Iowa, or an executive in the financial services industry, and shall be subject to confirmation by the senate. The members of the system and the person appointed by the governor shall serve for a term of two years.~~

Sec. 2. Section 97A.5, subsection 2, Code 1999, is amended to read as follows:

2. VOTING. Each trustee shall be entitled to one vote on said board and ~~two~~ three concurring votes shall be necessary for a decision by the trustees on any question at any meeting of said board.

Sec. 3. Section 97A.6, subsection 2, Code 1999, is amended to read as follows:

2. Allowance on service retirement.

a. Upon retirement from service prior to July 1, 1990, a member shall receive a service retirement allowance which shall consist of a pension which equals fifty percent of the member's average final compensation.

b. Upon retirement from service on or after July 1, 1990, but before July 1, 1992, a member shall receive a service retirement allowance which shall consist of a pension which equals fifty-four percent of the member's average final compensation.

c. Commencing July 1, 1992, ~~but before July 1, 2000~~, the board of trustees shall increase the percentage multiplier of the member's average final compensation by an additional two percent each July 1 until reaching sixty percent of the member's average final compensation.

d. Upon retirement from service on or after July 1, 2000, a member shall receive a service retirement allowance which shall consist of a pension which equals sixty and one-half percent of the member's average final compensation.

~~d. e.~~ Commencing July 1, 1990, if the member has completed more than twenty-two years of creditable service, the service retirement allowance shall consist of a pension which equals the amount provided in paragraphs "b" ~~and~~, "c", or "d", plus an additional percentage as set forth below:

(1) For a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1991, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added three-tenths

percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(2) For a member who terminates service, other than by death or disability, on or after July 1, 1991, but before October 16, 1992, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(3) For a member who terminates service, other than by death or disability, on or after October 16, 1992, but before July 1, 1996, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

(4) For a member who terminates service, other than by death or disability, on or after July 1, 1996, but before July 1, 1998, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added one and one-half percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

(5) For a member who terminates service, other than by death or disability, on or after July 1, 1998, but before July 1, 2000, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added one and one-half percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than ten additional years of service.

(6) For a member who terminates service, other than by death or disability, on or after July 1, 2000, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added two and three-fourths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than ten additional years of service.

Sec. 4. Section 97A.6, subsection 8, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

In lieu of the payment specified in paragraph "a", a beneficiary meeting the qualifications of paragraph "c" may elect to receive a monthly pension equal to one-twelfth of forty percent of the average final compensation of the member, but not less than an amount equal to ~~twenty~~ twenty-five percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the Iowa state patrol if the member was in service at the time of death. For a member not in service at the time of death, the pension shall be reduced as provided in subsection 1, paragraph "b".

Sec. 5. Section 97A.6, subsection 14, paragraph a, Code 1999, is amended to read as follows:

a. Effective July 1, 1980, and on each July 1 thereafter, the monthly pensions authorized in this section payable to retired members and to beneficiaries, except children of a deceased member, shall be adjusted as provided in this paragraph. The monthly pension of each retired member and each beneficiary shall be adjusted by adding to that monthly pension an amount equal to the amounts determined in subparagraphs (1) and (2). The adjusted monthly pension of a retired member shall not be less than the amount which was paid at the time of the member's retirement.

(1) An amount equal to the following percentages of the difference between the monthly earnable compensation payable to an active member of the department, of the same rank and position on the salary scale as was held by the retired or deceased member at the time of

the member's retirement or death, for July of the preceding year and the monthly earnable compensation payable to an active member of the department of the same rank and position on the salary scale for July of the year just beginning ~~shall be added to the monthly pension of each retired member and each beneficiary as follows~~ multiplied by the following applicable percentage:

~~(1) (a) Thirty~~ Forty percent for members receiving a service retirement allowance and for beneficiaries receiving a pension under subsection 9 of this section.

~~(2) (b) Thirty~~ Forty percent for members with five or more years of membership service who are receiving an ordinary disability retirement allowance.

~~(3) (c) Fifteen~~ Twenty-four percent for members with less than five years of membership service who are receiving an ordinary disability retirement allowance, and for beneficiaries receiving a pension under subsection 8 of this section.

~~(4) (d) Thirty-three and one-third~~ Forty percent for members receiving an accidental disability allowance.

~~The adjusted monthly pension shall not be less than the amount which was paid at the time of the member's retirement or death.~~

The amount added to the monthly pension of a surviving spouse receiving a pension under subsection 12, paragraph "a", of this section shall be equal to one-half the amount that would have been added to the monthly pension of the retired member under this subparagraph.

(2) The following applicable amount determined as follows:

(a) Fifteen dollars where the member's retirement date was less than five years prior to the effective date of the adjustment.

(b) Twenty dollars where the member's retirement date was at least five years, but less than ten years, prior to the effective date of the adjustment.

(c) Twenty-five dollars where the member's retirement date was at least ten years, but less than fifteen years, prior to the effective date of the adjustment.

(d) Thirty dollars where the member's retirement date was at least fifteen years, but less than twenty years, prior to the effective date of the adjustment.

(e) Thirty-five dollars where the member's retirement date was at least twenty years prior to the effective date of the adjustment.

As of the first of July of each year, the monthly pension payable to each surviving child under the provisions of subsections 8, 9, and 12 of this section shall be adjusted to equal six percent of the monthly earnable compensation payable on that July 1 to an active member having the rank of senior patrol officer of the Iowa state patrol.

Sec. 6. Section 97A.6, Code 1999, is amended by adding the following new subsection:  
NEW SUBSECTION. 16. LINE OF DUTY DEATH BENEFIT.

a. If, upon the receipt of evidence and proof that the death of a member in service was the direct and proximate result of a traumatic personal injury incurred in the line of duty, the board of trustees decides that death was so caused, there shall be paid, to a person authorized to receive an accidental death benefit as provided in subsection 9, the amount of one hundred thousand dollars, which shall be payable in a lump sum.

b. A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the member's death.

(2) The death was caused by the intentional misconduct of the member or by the member's intent to cause the member's own death.

(3) The member was voluntarily intoxicated at the time of death.

(4) The member was performing the member's duties in a grossly negligent manner at the time of death.

(5) An individual who would otherwise be entitled to a benefit under this subsection was, through the individual's actions, a substantial contributing factor to the member's death.

Sec. 7. Section 97A.8, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. On the basis of the rate of interest and of the mortality, interest, and other tables adopted by the board of trustees, the board of trustees, upon the advice of the actuary hired by the board for that purpose, shall make each valuation required by this chapter and shall immediately after making such valuation, determine the "normal contribution rate". The normal contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the sum of the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted by the board of trustees, all reduced by the employee contribution made pursuant to this subsection. However, the normal rate of contribution shall not be less than seventeen percent. The normal rate of contribution shall be determined by the board of trustees after each valuation. To assist in determining the normal rate of contribution, the board of trustees may adopt a smoothing method for valuing the assets of the system. The smoothing method is designed to reduce changes in the normal contribution rate which could result from fluctuations in the market value of the assets of the system.

Sec. 8. Section 97A.8, subsection 1, paragraph c, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 9. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. Section 4 of this Act, amending section 97A.6, subsection 8, paragraph "b", being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1996, and is applicable on and after that date.

## DIVISION II

### IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Sec. 10. Section 97B.1A, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 2A. "Accumulated employer contributions" means an amount equal to the total obtained as of any date, by accumulating each individual contribution by the employer for the member with interest plus interest dividends as provided in section 97B.70, for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years, compounded as provided in section 97B.70.

Sec. 11. Section 97B.1A, subsection 8, paragraph a, subparagraph (1), Code 1999, is amended to read as follows:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions. An elective official covered under this chapter may terminate membership under this chapter by informing the department in writing of the expiration of the member's term of office or by informing the department of the member's intent to terminate membership for employment as an elective official and establishing that the member has a bona fide termination of employment from all employment covered under this chapter other than as an elective official and that the member has filed a completed application for benefits form with the department. A county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or part-time basis.

Sec. 12. Section 97B.1A, subsection 8, paragraph a, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (12) Persons employed by a municipal water utility or waterworks that has established a pension and annuity retirement system for its employees pursuant to chapter 412.

Sec. 13. Section 97B.1A, subsection 8, paragraph b, subparagraph (3), Code 1999, is amended to read as follows:

(3) Employees hired for temporary employment of less than six consecutive months or one thousand forty hours in a calendar year. An employee who works for an employer for six or more consecutive months ~~in a calendar year~~ or who works for an employer for more than one thousand forty hours in a calendar year is not a temporary employee under this subparagraph. Adjunct instructors are temporary employees for the purposes of this chapter. As used in this section, unless the context otherwise requires, "adjunct instructors" means instructors employed by a community college or a university governed by the state board of regents without a continuing contract, whose teaching load does not exceed one-half time for two full semesters or three full quarters per calendar year.

Sec. 14. Section 97B.1A, Code 1999, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 14A. "Member account" means the account established for each member and includes the member's accumulated contributions and the member's share of the accumulated employer contributions as provided in section 97B.53. "Member account" does not mean the supplemental account for active members.

Sec. 15. Section 97B.1A, Code 1999, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 22A. "Supplemental account for active members" or "supplemental account" means the account established for each active member under section 97B.49H.

Sec. 16. Section 97B.1A, subsection 24, paragraph a, Code 1999, is amended to read as follows:  
a. "Three-year average covered wage" means, for a member who retires prior to July 1, 2003, a member's covered wages averaged for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the department may determine the wages for the third year by computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the two highest years and using the computed average quarter for each quarter in the third year in which no wages have been reported in combination with the final quarter or quarters of the member's service to create a full year. However, the department shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service. Notwithstanding any other provision of this paragraph to the contrary, a member's wages for the third year as computed by this paragraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages for a member whose first month of entitlement is January 1999 or later.

Sec. 17. Section 97B.1A, subsection 24, paragraph b, subparagraph (4), Code 1999, is amended to read as follows:

(4) For a member who retires on or after January 1, 2000, but before January 1, ~~2003~~ 2001, and whose three-year average covered wage at the time of retirement exceeds ~~fifty-five~~ sixty-five thousand dollars, the member's covered wages averaged for the highest ~~seven~~ six years of the member's service or ~~fifty-five~~ sixty-five thousand dollars, whichever is greater.

Sec. 18. Section 97B.1A, subsection 24, paragraph b, Code 1999, is amended by adding the following new subparagraph:

**NEW SUBPARAGRAPH.** (5) For a member who retires on or after January 1, 2001, but before January 1, 2002, and whose three-year average covered wage at the time of retirement exceeds seventy-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or seventy-five thousand dollars, whichever is greater.

Sec. 19. Section 97B.1A, subsection 24, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. "Three-year average covered wage" means, for a member who retires on or after July 1, 2003, the greater of the member's covered wages averaged for a member's highest twelve consecutive quarters of service or the member's covered wages averaged for a member's highest three calendar years of service. The department shall adopt rules to implement this paragraph in accordance with the requirements of this chapter and the federal Internal Revenue Code.

Sec. 20. Section 97B.1A, subsection 26, paragraph a, Code 1999, is amended to read as follows:

a. (1) "Wages" means all remuneration for employment, including the, but not limited to, any of the following:

(a) The cash value of remuneration paid in a medium other than cash, but not including the cash value of remuneration paid in a medium other than cash as wage equivalents not necessitated by the convenience of the employer. The amount agreed upon by the employer and employee for remuneration paid in a medium other than cash fair market value of such wage equivalents shall be reported to the department by the employer and is conclusive of the value of the remuneration. "Wages" does not include special lump sum payments made as payment for accrued sick leave or accrued vacation or payments made as an incentive for early retirement or as payments made upon dismissal, severance, or a special bonus payment.

(b) The remuneration paid to an employee before employee-paid contributions are made to plans qualified under sections 125, 129, 401, 403, 408, and 457 of the Internal Revenue Code. In addition, wages includes amounts that can be received in cash in lieu of employer-paid contributions to such plans, if the election is uniformly available and is not limited to highly compensated employees, as defined in section 414(q) of the Internal Revenue Code.

(c) Wages for For an elected official means, other than a member of the general assembly, the total compensation received by the elected official, whether paid in the form of per diem or annual salary received by an elected official, exclusive of expense and travel allowances.

(d) Wages for For a member of the general assembly, means the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary, exclusive of expense and travel allowances paid to a member of the general assembly except as otherwise provided in this paragraph subparagraph subdivision. Wages includes per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. Wages also includes daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly, but does not include the portion of the daily allowance which exceeds the maximum established by law for members from Polk county.

(e) Payments for compensatory time earned that are received in lieu of taking regular work hours off and when paid as a lump sum. However, "wages" does not include payments made in a lump sum for compensatory time earned in excess of two hundred forty hours per year.

(f) Employee contributions required under section 97B.11 and picked up by the employer under section 97B.11A.

(2) "Wages" does not include any of the following:

(a) The cash value of wage equivalents necessitated by the convenience of the employer.

(b) Payments made for accrued sick leave or accrued vacation leave that are not being used to replace regular work hours, whether paid in a lump sum or in installments.

(c) Payments made as an incentive for early retirement or as payment made upon dismissal or severance from employment, or a special bonus payment intended as an early retirement incentive, whether paid in a lump sum or in installments.

(d) Employer-paid contributions that cannot be received by the employee in cash and that are made to, and any distributions from, plans, programs, or arrangements qualified under section 117, 120, 125, 129, 401, 403, 408, or 457 of the Internal Revenue Code.<sup>1</sup>

<sup>1</sup> See chapter 1171, §26 herein

- (e) Employer-paid contributions for coverage under, or distributions from, an accident, health, or life insurance plan, program, or arrangement.
- (f) Workers' compensation and unemployment compensation payments.
- (g) Disability payments.
- (h) Reimbursements of employee business expenses except for those expenses included as wages for a member of the general assembly.
- (i) Payments for allowances made to an employee that are not included in an employee's federal taxable income except for those allowances included as wages for a member of the general assembly.
- (j) Payments of damages, attorney fees, interest, and penalties made to satisfy a grievance or wage claim.
- (k) Payments for services as an independent contractor.
- (l) Payments made by an entity that is not an employer under this chapter.
- (m) Payments made in lieu of any employer-paid group insurance coverage.
- (n) Payments made for the difference between the costs of single and family insurance coverage.

Sec. 21. Section 97B.5, Code 1999, is amended to read as follows:  
97B.5 STAFF.

Subject to other provisions of this chapter, the department may employ personnel as necessary for the administration of the system, including but not limited to a chief investment officer and a chief benefits officer. The maximum number of full-time equivalent employees specified by the general assembly for the department for administration of the system for a fiscal year shall not be reduced by any authority other than the general assembly. The staff shall be appointed pursuant to chapter 19A. The department shall not appoint or employ a person who is an officer or committee member of a political party organization or who holds or is a candidate for ~~an a~~ partisan elective public office. The department may employ attorneys and contract with attorneys and legal firms for the provision of legal counsel and advice in the administration of this chapter and chapter 97C. The department may execute contracts with investment advisors, consultants, and managers outside state government in the administration of this chapter. The department may delegate to any person such authority as it deems reasonable and proper for the effective administration of this chapter, and may bond any person handling moneys or signing checks under this chapter.

Sec. 22. Section 97B.9, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~Contributions unpaid on the date on which they are due and payable as prescribed by the department. An employer shall bear be charged the greater of ten dollars per occurrence or interest at the combined interest and dividend rate required under section 97B.70 for the applicable calendar year, provided that the for contributions unpaid on the date on which they are due and payable as prescribed by the department. The department may prescribe fair and reasonable regulations pursuant to adopt rules prescribing circumstances for which the interest or charge shall not accrue with respect to contributions required. Interest or charges collected pursuant to this section shall be paid into the Iowa public employees' retirement fund.~~

Sec. 23. Section 97B.9, subsection 4, Code 1999, is amended to read as follows:

4. Regardless of any potentially applicable statute of limitations, if the department finds that the ~~employer or employee or employer, or both, have erroneously underpaid contributions, the employer shall pay the employer's share of contributions and interest and the interest assessed to the employee's share of contributions~~ department shall notify the employer and employee in writing of the total amount of the underpayment, including interest, and the employer's and employee's share of the underpayment. The department shall collect from the employer the total amount of the underpayment, including the employer's share, the employee's share, and the interest assessed to both shares of the underpayment.

regardless of whether the employee has reimbursed the employer for the employee's share of the underpayment. The employee shall be obligated to pay only the employee's share of the underpaid contributions, without interest, to the employer, who shall then remit them to the department. The employer may collect the employee's share of underpaid contributions from the employee or the employee's estate. The employer may collect the employee's share through a deduction from the employee's wages, or by maintaining a legal action against the employee or the employee's estate. For purposes of section 1526 of the federal Taxpayer Relief Act of 1997, eligible participants, as defined by section 1526, may make payments of contributions under this section without regard to the limitations of section 415(c)(1) of the federal Internal Revenue Code.

Sec. 24. Section 97B.11, unnumbered paragraph 2, Code 1999, is amended by striking the unnumbered paragraph.

Sec. 25. NEW SECTION. 97B.14A WAGE REPORTING.

An employer shall report wages of employees covered by this chapter to the department in a manner and form as prescribed by the department. If the wages reported by an employer appear to be a distortion of the normal wage progression pattern for an employee, the department may request that the employer provide documentation indicating that the wages were not misreported for the purposes of causing an increase in the retirement allowance or other payments authorized to be made by this chapter. If the department determines that the wages of an employee were misreported, the employer shall prepare and file wage adjustments allocating the wages to the proper wage reporting period.

Sec. 26. Section 97B.17, subsection 2, Code 1999, is amended to read as follows:

2. Records specifying amounts accumulated in members' active accounts and supplemental accounts.

Sec. 27. Section 97B.25, Code 1999, is amended to read as follows:

97B.25 APPLICATIONS FOR BENEFITS.

A representative designated by the chief benefits officer and referred to in this chapter as a retirement benefits ~~specialist officer~~ shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid. If the claim is valid, the retirement benefits ~~specialist officer~~ shall send a notification to the member stating the option the member has selected pursuant to ~~sections 97B.49A through 97B.49G, as applicable, or~~ section 97B.51, the month with respect to which benefits shall commence, and the monthly benefit amount payable. If the claim is invalid, the retirement benefits ~~specialist officer~~ shall promptly notify the applicant and any other interested party of the decision and the reasons. A retirement application shall not be amended or revoked by the member once the first retirement allowance is paid. A member's death during the first month of entitlement shall not invalidate an approved application.

Sec. 28. Section 97B.42A, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A person who is employed in a position as an employee as defined in section 97B.1A, subsection 8, paragraph "a", subparagraph (12), on July 1, 2000, and who has not elected out of coverage under this chapter prior to that date, shall begin coverage under the system on July 1, 2000, unless, on or before August 31, 2000, the person files an application with appropriate documentation to elect coverage under an alternative pension and annuity retirement system established pursuant to chapter 412. If a person elects coverage under the alternative pension and annuity retirement system, the period of time from July 1, 2000, until the date the person's election of coverage is effective shall not constitute service for purposes of coverage under this chapter and a wage adjustment shall be processed for the person based on any contributions collected pursuant to this chapter during that period of time and shall be credited pursuant to section 97B.10. A decision to elect coverage under an alternative pension and annuity retirement system established pursuant to chapter 412 under this subsection is irrevocable upon approval from the department.



A person who becomes a member of the Iowa public employees' retirement system pursuant to this subsection, and who has one or more years of covered wages, may purchase credit, pursuant to section 97B.73, for one or more quarters of service prior to August 1, 2000, in which the person was employed in a position as described by section 97B.1A, subsection 8, paragraph "a", subparagraph (12), but was not a member of the system.

Sec. 29. Section 97B.42A, subsection 4, Code 1999, is amended to read as follows:

4. A person who becomes a member of the system pursuant to subsection 3, or who is a member of the system, and who has one or more years of covered wages, may purchase credit, pursuant to section 97B.73, for one or more quarters of service prior to January 1, 1999, in which the person was employed in a position as described in section 97B.1A, subsection 8, paragraph "a", but was not a member of the system.

Sec. 30. Section 97B.44, Code 1999, is amended to read as follows:

97B.44 BENEFICIARY.

Each member shall designate on a form to be furnished by the department a beneficiary for death benefits payable under this chapter on the death of the member. The designation may be changed from time to time by the member by filing a new designation with the department. A designation or change in designation made by a member on or after July 1, 2000, shall contain the written consent of the member's spouse, if applicable. The designation of a beneficiary is not applicable if the member receives a refund of all contributions of the member. If a member who has received a refund of contributions returns to employment, the member shall file a new designation with the department.

If a member has not designated a beneficiary on a form furnished by the department, or if there are no surviving designated beneficiaries of a member, death benefits payable under this chapter shall be paid to the member's estate.

Sec. 31. Section 97B.48, subsection 1, Code 1999, is amended to read as follows:

1. Retirement allowances shall be paid monthly, except that an allowance of less than six hundred dollars a year may, at the member's option, be paid as a lump sum in an amount equal to the sum of the member's and employer's accumulated contributions and the retirement dividends standing to the member's credit before December 31, 1966. Receipt of the lump-sum payment by a member shall terminate any and all entitlement for the period of service covered of the member under this chapter and the member shall not be eligible to buy back the period of service.

Sec. 32. Section 97B.48, subsection 3, Code 1999, is amended to read as follows:

3. As of the first of the month in which a member attains the age of seventy years, the department shall provide written notification to the member that the member may commence receiving a retirement allowance regardless of the member's employment status. Prior to receiving a retirement allowance pursuant to this subsection, a member shall acknowledge in writing that the member was informed by the department of the consequences of electing to receive a retirement allowance pursuant to this subsection and that receipt of a retirement allowance under this subsection is optional. Upon termination from employment of a member receiving a retirement allowance pursuant to this subsection, the member is entitled to have the member's monthly retirement allowance recalculated using the applicable formula for determining a retirement allowance pursuant to sections 97B.49A through 97B.49G, as applicable, in place at the time of the member's first month of entitlement.

Sec. 33. Section 97B.48A, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If a member who has not reached the member's sixty-fifth birthday and who has a bona fide retirement under this chapter is in regular full-time employment during a calendar year, the member's retirement allowance shall be reduced by fifty cents for each dollar the member earns over the limit provided in this subsection. However, employment is not full-time employment until the member receives remuneration in an amount in excess of ~~twelve~~ fourteen

thousand dollars for a calendar year, or an amount equal to the amount of remuneration permitted for a calendar year for persons under sixty-five years of age before a reduction in federal social security retirement benefits is required, whichever is higher. Effective the first of the month in which a member attains the age of sixty-five years, a retired member may receive a retirement allowance without a reduction after return to covered employment regardless of the amount of remuneration received.

Sec. 34. Section 97B.48A, subsection 3, Code 1999, is amended to read as follows:

3. Upon a retirement after reemployment, a retired member may have the retired member's retirement allowance redetermined under this section or section 97B.48, ~~sections 97B.49A through 97B.49H~~, section 97B.50, or section 97B.51, whichever is applicable, based upon the addition of credit for the years of membership service of the employee after reemployment, the covered wage during reemployment, and the age of the employee after reemployment. The member shall receive a single retirement allowance calculated from both periods of membership service, one based on the initial retirement and one based on the second retirement following reemployment. If the total years of membership service and prior service of a member who has been reemployed equals or exceeds thirty, the years of membership service on which the original retirement allowance was based may be reduced by a fraction of the years of service equal to the number of years by which the total years of membership service and prior service exceeds thirty divided by thirty, if this reduction in years of service will increase the total retirement allowance of the member. The additional retirement allowance calculated for the period of reemployment shall be added to the retirement allowance calculated for the initial period of membership service and prior service, adjusted as provided in this subsection. The retirement allowance calculated for the initial period of membership service and prior service shall not be adjusted for any other factor than years of service. The retired member shall not receive a retirement allowance based upon more than a total of thirty years of service. Effective July 1, 1998, a redetermination of a retirement allowance as authorized by this subsection for a retired member whose combined service exceeds the applicable years of service for that member as provided in sections 97B.49A through 97B.49G shall have the determination of the member's reemployment benefit based upon the percentage multiplier as determined for that member as provided in sections 97B.49A through 97B.49G.

Sec. 35. Section 97B.48A, subsection 4, Code 1999, is amended to read as follows:

4. The department shall pay to the member the accumulated contributions of the member and all of the employer contributions, plus interest plus interest dividends as provided in section 97B.70, for all completed calendar years, compounded as provided in section 97B.70, on the covered wages earned by a retired member that are not used in the recalculation of the retirement allowance of a member. A payment of contributions to a member pursuant to this subsection shall be considered a retirement payment and not a refund and the member shall not be eligible to buy back the period of reemployment service.

Sec. 36. Section 97B.49B, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. "Applicable percentage" means the greater of the following percentages:

(1) ~~sixty~~ Sixty percent or, for,

(2) For each active or inactive vested member retiring on or after July 1, 1996, but before July 1, 2000, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-five years of service for the member, not to exceed a total of five additional percentage points.

(3) For each active or inactive vested member retiring on or after July 1, 2000, but before July 1, 2001, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-four years of service for the member, not to exceed a total of six additional percentage points.

(4) For each active or inactive vested member retiring on or after July 1, 2001, but before July 1, 2002, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-three years of service for the member, not to exceed a total of seven additional percentage points.

(5) For each active or inactive vested member retiring on or after July 1, 2002, but before July 1, 2003, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service for the member, not to exceed a total of eight additional percentage points.

(6) For each active or inactive vested member retiring on or after July 1, 2003, sixty percent plus, if applicable, an additional three-eighths of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service for the member, not to exceed a total of twelve additional percentage points.

Sec. 37. Section 97B.49B, subsection 1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. aa. "Applicable years of service" means the following:

(1) For each active or inactive vested member retiring on or after July 1, 1996, and before July 1, 2000, twenty-five.

(2) For each active or inactive vested member retiring on or after July 1, 2000, and before July 1, 2001, twenty-four.

(3) For each active or inactive vested member retiring on or after July 1, 2001, and before July 1, 2002, twenty-three.

(4) For each active or inactive vested member retiring on or after July 1, 2002, twenty-two.

Sec. 38. Section 97B.49B, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. "Fraction of years of service" means a number, not to exceed one, equal to the sum of the years of eligible service in a protection occupation divided by ~~twenty-five~~ the applicable years of service for the member.

Sec. 39. Section 97B.49B, subsection 1, paragraph d, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) An employee covered by the merit system as provided in chapter 19A whose primary duty is providing airport security and who carries or is licensed to carry a firearm while performing those duties.

Sec. 40. Section 97B.49D, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. One-twelfth of an amount equal to the applicable percentage of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this paragraph shall be the actual years of service, not to exceed ~~twenty-five~~ the applicable years of service for the member as defined in section 97B.49B, earned in a position described in section 97B.49B, for which special service contributions were made, divided by ~~twenty-five~~ the applicable years of service for the member as defined in section 97B.49B. In calculating the fractions of years of service under the paragraph, a member shall not receive special service credit for years of service for which the member and the member's employer did not make the required special service contributions to the department.

Sec. 41. Section 97B.49F, subsection 1, paragraph b, subparagraph (2), subparagraph subdivision (a), Code 1999, is amended to read as follows:

(a) The percentage representing ~~eighty percent~~ of the percentage increase in the consumer price index published in the federal register by the federal department of labor, bureau of labor statistics, that reflects the percentage increase in the consumer price index for the twelve-month period ending June 30 of the year that the dividend is to be paid.

Sec. 42. Section 97B.49F, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. If a member eligible to receive a cost-of-living dividend dies before November 1 of a year, a cost-of-living dividend shall not be payable in November of that year in the name of the member. If a member dies on or after November 1, but before payment of a dividend is made in that month, the full amount of the retirement dividend for that year shall be paid in the member's name upon notification of the member's death.

Sec. 43. Section 97B.49F, subsection 2, paragraph a, Code 1999, is amended to read as follows:

a. Commencing January 1, 1999, all members who retired on or after July 1, 1990, and who have been retired for at least one year as of the date the dividend is payable, or a beneficiary or contingent annuitant of such a member who receives a monthly benefit, shall be eligible to receive a favorable experience dividend, payable on the last business day in January of each year pursuant to the requirements of this subsection. If the member, beneficiary, or contingent annuitant eligible to receive a favorable experience dividend dies before January 1 of a year, a favorable experience dividend shall not be payable in January of that year in the name of the member, beneficiary, or contingent annuitant. However, if the member, beneficiary, or contingent annuitant dies on or after January 1 but before the dividend is paid in that month, the full amount of the dividend payable in that month shall be paid in the name of the applicable member, beneficiary, or contingent annuitant, upon notification of death.

Sec. 44. Section 97B.49F, subsection 2, paragraph c, Code 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3A) Notwithstanding the provisions of this paragraph to the contrary, moneys credited to the reserve account in any applicable year shall not exceed an amount which, if credited to the reserve account, would exceed an amount that the system's actuary determines is sufficient to pay the maximum favorable experience dividend for each of the next following ten years, based on reasonable actuarial assumptions.

Sec. 45. Section 97B.49F, subsection 2, paragraph d, Code 1999, is amended to read as follows:

d. The favorable experience dividend is calculated by multiplying the ~~total of the monthly benefit payments of retirement allowance payable to the retiree, beneficiary, or contingent annuitant for the previous calendar year~~ December, or such other month as determined by the department, by twelve, and then multiplying that amount by the number of complete years the member has been retired or would have been retired if living as of the date the dividend is payable, and by the applicable percentage. For purposes of this paragraph, the applicable percentage is the percentage, not to exceed three percent, that the department determines shall be applied in calculating the favorable experience dividend if the department determines that the reserve account is sufficiently funded to make a distribution. In making its determination, the department shall consider, but not be limited to, the amounts credited to the reserve account, the distributions from the reserve account made in previous years, the likelihood of future credits to and distributions from the reserve account, and the distributions paid under subsection 1.

Sec. 46. Section 97B.49G, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 12. PROBATION AND PAROLE OFFICERS III — JULY 1994 - JULY 1998. The department shall establish and maintain additional contribution accounts for employees of judicial district departments of correctional services who were employed as parole officers III and probation officers III during any portion of the period from July 1, 1994, through June 30, 1998. A probation officer III or parole officer III who made contributions to the retirement fund during the period from July 1, 1994, through June 30, 1998, as a member of a protection occupation shall have credited to an additional contribution account

for that probation or parole officer an amount equal to the contributions made to the retirement fund in excess of 3.7 percent of the probation or parole officer's covered wages paid from July 1, 1994, through June 30, 1998, plus interest at the applicable statutory interest rates established in this chapter. Moneys deposited in an additional contribution account established pursuant to this section shall be payable in a lump sum to the probation or parole officer at retirement or upon request for a refund of moneys in the account. If the probation or parole officer dies prior to receipt of moneys in the account, the beneficiary designated by that probation or parole officer shall receive a lump sum payment of moneys in the account. The payment of moneys from the account created in this subsection shall not be annuitized. A probation officer III or parole officer III for which an account is established under this subsection shall not receive credit for eligible service as a member of a protection occupation for that service.

Sec. 47. Section 97B.49H, subsection 5, paragraph c, Code 1999, is amended to read as follows:

c. Upon retirement, the member shall elect to receive in a lump sum payment or in an annuity, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account. The annuity provided under this section shall be payable in the same form, at the same time, and to the same persons, including beneficiaries and contingent annuitants, that the member elects for the payments under the other provisions of this chapter providing for the monthly payment of allowances. The amount of an annuity provided under this section, including amounts payable to beneficiaries and contingent annuitants, shall be calculated using the amount credited to the member's supplemental account as of the date of retirement, and the assumptions underlying the actuarial tables used to calculate optional allowances under section 97B.51.

Sec. 48. Section 97B.50, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Except as otherwise provided in this section, a vested member who is at least fifty-five years of age, upon retirement prior to the normal retirement date ~~other than that specified in section 97B.45, subsection 4 for that member~~, is entitled to receive a monthly retirement allowance determined in the same manner as provided for normal retirement in sections 97B.49A, 97B.49E, and 97B.49G, reduced as follows:

Sec. 49. Section 97B.50, subsection 2, Code 1999, is amended to read as follows:

2. a. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the federal Social Security Act, 42 U.S.C. § 423 et seq., and who has not reached the normal retirement date, shall receive benefits as selected under sections 97B.49A through 97B.49G, as applicable section 97B.51, and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time after July 4, 1953. Eligible members retiring on or after July 1, 2000, are entitled to the receipt of retroactive adjustment payments back to July 1, 1990 for no more than thirty-six months immediately preceding the month in which written notice of retirement due to disability was submitted to the department, notwithstanding the requirements of subsection 4.

b. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the federal Railroad Retirement Act, 45 U.S.C. § 231 et seq., and who has not reached the normal retirement date, shall receive benefits as selected under sections 97B.49A through 97B.49G, as applicable section 97B.51, and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits

shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time since July 4, 1953. Eligible members retiring on or after July 1, 2000, are entitled to the receipt of retroactive adjustment payments back to July 1, 1990 for no more than thirty-six months immediately preceding the month in which written notice of retirement due to disability was submitted to the department, notwithstanding the requirements of subsection 4.

Sec. 50. Section 97B.50, subsection 2, Code 1999, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** c. A vested member who terminated service due to a disability, who has been issued payment for a refund pursuant to section 97B.53, and who subsequently commences receiving disability benefits as a result of that disability pursuant to the federal Social Security Act, 42 U.S.C. § 423 et seq. or the federal Railroad Retirement Act, 45 U.S.C. § 231 et seq., may receive credit for membership service for the period covered by the refund payment, upon repayment to the department of the actuarial cost of receiving service credit for the period covered by the refund payment, as determined by the department. For purposes of this paragraph, the actuarial cost of the service purchase shall be determined as provided in section 97B.74. The payment to the department as provided in this paragraph shall be made within ninety days after July 1, 2000, or the date federal disability payments commenced, whichever occurs later. For purposes of this paragraph, the date federal disability payments commence shall be the date that the member actually receives the first such payment, regardless of any retroactive payments included in that payment. A member who repurchases service credit under this paragraph and applies for retirement benefits shall have the member's monthly allowance, including retroactive adjustment payments, determined in the same manner as provided in paragraph "a" or "b", as applicable. This paragraph shall not be implemented until the system has received a determination letter from the federal internal revenue service approving the system's plan's qualified status under Internal Revenue Code section 401(a).

Sec. 51. **NEW SECTION.** 97B.50A DISABILITY BENEFITS FOR SPECIAL SERVICE MEMBERS.

1. **DEFINITIONS.** For purposes of this section, unless the context otherwise provides:

a. "Member" means a vested member who is classified as a special service member under section 97B.1A, subsection 22, at the time of the alleged disability. "Member" does not mean a volunteer fire fighter.

b. "Net disability retirement allowance" means the amount determined by subtracting the amount paid during the previous calendar year by the member for health insurance or similar health care coverage for the member and the member's dependents from the amount of the member's disability retirement allowance, including any dividends and distributions from supplemental accounts, paid for that year pursuant to this section.

c. "Reemployment comparison amount" means an amount equal to the current covered wages of an active special service member at the same position on the salary scale within the rank or position the member held at the time the member received a disability retirement allowance pursuant to this section. If the rank or position held by the member at the time of retirement pursuant to this section is abolished, the amount shall be computed by the department as though the rank or position had not been abolished and salary increases had been granted on the same basis as granted to other ranks or positions by the former employer of the member. The reemployment comparison amount shall not be less than the three-year average covered wage of the member, based on all regular and special service covered under this chapter.

2. **IN-SERVICE DISABILITY RETIREMENT ALLOWANCE.**

a. A member who is injured in the performance of the member's duties, and otherwise meets the requirements of this subsection shall receive an in-service disability retirement

allowance under this subsection, in lieu of a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable.

b. Upon application of a member, a member who has become totally and permanently incapacitated for duty in the member's special service occupation as the natural and proximate result of an injury, disease, or exposure occurring or aggravated while in the actual performance of duty at some definite place and time shall be eligible to retire under this subsection, provided that the medical board, as established by this section, shall certify that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. The department shall make the final determination, based on the medical evidence received, of a member's total and permanent disability. However, if a person's special service membership in the system first commenced on or after July 1, 2000, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the department that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same or comparable special service occupation position held by the member immediately prior to the application for disability benefits.

c. Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain, exposure, or the inhalation of noxious fumes, poison, or gases. However, if a person's special service membership in the system first commenced on or after July 1, 2000, and the heart disease or disease of the lungs or respiratory tract would not exist, but for a medical condition that was known to exist on the date that special service membership commenced, the presumption established in this paragraph shall not apply.

d. Upon retirement for an in-service disability as provided by this subsection, a member shall receive the greater of a monthly in-service disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable. The monthly in-service disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of sixty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

### 3. ORDINARY DISABILITY RETIREMENT ALLOWANCE.

a. A member who otherwise meets the requirements of this subsection shall receive an ordinary disability retirement allowance under this subsection, in lieu of a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable.

b. Upon application of a member, a member who has become totally and permanently incapacitated for duty in the member's special service occupation shall be eligible to retire under this subsection, provided that the medical board, as established by this section, shall certify that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. The department shall make the final determination, based on the medical evidence received, of a member's total and permanent disability. However, if a person's special service membership in the system first commenced on or after July 1, 2000, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that special service membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the department that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same or comparable special service occupation position held by the member immediately prior to the application for disability benefits.

c. Upon retirement for an ordinary disability as provided by this subsection, a member shall receive the greater of a monthly ordinary disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable. The monthly ordinary disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

4. **WAIVER OF ALLOWANCE.** A member receiving a disability retirement allowance under this section may file an application to receive benefits pursuant to section 97B.50, subsection 2, in lieu of receiving a disability retirement allowance under this section, if the member becomes eligible for benefits under section 97B.50, subsection 2. An application to receive benefits pursuant to section 97B.50, subsection 2, shall be filed with the department within sixty days after the member becomes eligible for benefits pursuant to that section or the member shall be ineligible to elect coverage under that section. On the first of the month following the month in which a member's application is approved by the department, the member's election of coverage under section 97B.50, subsection 2, shall become effective and the member's eligibility to receive a disability retirement allowance pursuant to this section shall cease. Benefits payable pursuant to section 97B.50, subsection 2, shall be calculated using the option choice the member selected for payment of a disability retirement allowance pursuant to this section. An application to elect coverage under section 97B.50, subsection 2, is irrevocable upon approval by the department.

5. **OFFSET TO ALLOWANCE.** Notwithstanding any provisions to the contrary in state law, or any applicable contract or policy, any amounts which may be paid or payable by the employer under any workers' compensation, unemployment compensation, or other law to a member, and any disability payments the member receives pursuant to the federal Social Security Act, 42 U.S.C. § 423 et seq., shall be offset against and payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

6. **REEXAMINATION OF MEMBERS RETIRED ON ACCOUNT OF DISABILITY.**

a. Once each year during the first five years following the retirement of a member under this section, and once in every three-year period thereafter, the department may, and upon the member's application shall, require any member receiving an in-service or ordinary disability retirement allowance who has not yet attained the age of fifty-five years to undergo a medical examination as arranged by the medical board as established by this section. The examination shall be made by the medical board or by an additional physician or physicians designated by the medical board. If any member receiving an in-service or ordinary disability retirement allowance who has not attained the age of fifty-five years refuses to submit to the medical examination, the allowance may be discontinued until the member's withdrawal of the refusal, and should the member's refusal continue for one year, all rights in and to the member's disability retirement allowance shall be revoked by the department.

b. If a member is determined under paragraph "a" to be no longer eligible for in-service or ordinary disability benefits, all benefits paid under this section shall cease. The member shall be eligible to receive benefits calculated under section 97B.49B or 97B.49C, as applicable, when the member reaches age fifty-five.

7. **REEMPLOYMENT.**

a. If a member receiving a disability retirement allowance is returned to covered employment, the member's disability retirement allowance shall cease, the member shall again become an active member, and shall contribute thereafter at the same rate payable by similarly classified members. If a member receiving a disability retirement allowance returns to special service employment, then the period of time the member received a disability retirement allowance shall constitute eligible service as defined in section 97B.49B, subsection 1, or section 97B.49C, subsection 1, as applicable. Upon subsequent retirement, the member's retirement allowance shall be calculated as provided in section 97B.48A.



b. (1) If a member receiving a disability retirement allowance is engaged in a gainful occupation that is not covered employment, the member's disability retirement allowance shall be reduced, if applicable, as provided in this paragraph.

(2) If the member is engaged in a gainful occupation paying more than the difference between the member's net disability retirement allowance and one and one-half times the reemployment comparison amount for that member, then the amount of the member's disability retirement allowance shall be reduced to an amount such that the member's net disability retirement allowance plus the amount earned by the member shall equal one and one-half times the reemployment comparison amount for that member.

(3) The member shall submit sufficient documentation to the system to permit the system to determine the member's net disability retirement allowance and earnings from a gainful occupation that is not covered employment for the applicable year.

(4) This paragraph does not apply to a member who is at least fifty-five years of age and would have completed a sufficient number of years of service if the member had remained in active special service employment. For purposes of this subparagraph, a sufficient number of years of service shall be twenty-five for a special service member as described in section 97B.49B or twenty-two for a special service member as described in section 97B.49C.

8. **DEATH BENEFITS.** A member who is receiving an in-service or ordinary disability retirement allowance under this section shall be treated as having elected a lifetime monthly retirement allowance with death benefits payable under section 97B.52, subsection 2, unless the member elects an optional form of benefit provided under section 97B.51, which shall be actuarially equivalent to the lifetime monthly retirement allowance provided under this section.

9. **MEDICAL BOARD.** The system shall designate a medical board to be composed of three physicians from the university of Iowa hospitals and clinics who shall arrange for and pass upon the medical examinations required under this section and shall report in writing to the department the conclusions and recommendations upon all matters duly referred to the medical board. Each report of a medical examination under this section shall include the medical board's findings as to the extent of the member's physical or mental impairment. Except as required by this section, each report shall be confidential and shall be maintained in accordance with the federal Americans with Disabilities Act, and any other state or federal law containing requirements for confidentiality of medical records.

10. **LIABILITY OF THIRD PARTIES — SUBROGATION.**

a. If a member receives an injury for which benefits are payable under this section, and if the injury is caused under circumstances creating a legal liability for damages against a third party other than the system, the member or the member's legal representative may maintain an action for damages against the third party. If a member or a member's legal representative commences such an action, the plaintiff member or representative shall serve a copy of the original notice upon the system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the system, and the following rights and duties ensue:

(1) The system shall be indemnified out of the recovery of damages to the extent of benefit payments made by the system, with legal interest, except that the plaintiff member's attorney fees may be first allowed by the district court.

(2) The system has a lien on the damage claim against the third party and on any judgment on the damage claim for benefits for which the system is liable. In order to continue and preserve the lien, the system shall file a notice of the lien within thirty days after receiving a copy of the original notice in the office of the clerk of the district court in which the action is filed.

b. If a member fails to bring an action for damages against a third party within thirty days after the system requests the member in writing to do so, the system is subrogated to the rights of the member and may maintain the action against the third party, and may recover damages for the injury to the same extent that the member may recover damages for the injury. If the system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

(1) A sum sufficient to repay the system for the amount of such benefits actually paid by the system up to the time of the entering of the judgment.

(2) A sum sufficient to pay the system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits, for which the system is liable, but the sum is not a final adjudication of the future payment which the member is entitled to receive.

(3) Any balance shall be paid to the member.

c. Before a settlement is effective between the system and a third party who is liable for any injury, the member must consent in writing to the settlement; and if the settlement is between the member and a third party, the system must consent in writing to the settlement; or on refusal to consent, in either case, the district court in the county in which either the employer of the member or the system is located must consent in writing to the settlement.

d. For purposes of subrogation under this section, a payment made to an injured member or the member's legal representative, by or on behalf of a third party or the third party's principal or agent, who is liable for, connected with, or involved in causing the injury to the member, shall be considered paid as damages because the injury was caused under circumstances creating a legal liability against the third party, whether the payment is made under a covenant not to sue, compromise settlement, denial of liability, or is otherwise made.

11. DOCUMENT SUBMISSIONS. A member retired under this section, in order to be eligible for continued receipt of retirement benefits, shall submit to the department any documentation the department may reasonably request which will provide information needed to determine payments to the member under this section.

12. ADDITIONAL CONTRIBUTIONS. The expenses incurred in the administration of this section by the system shall be paid through additional contributions as determined pursuant to section 97B.49B, subsection 3, or section 97B.49C, subsection 3, as applicable.

13. APPLICABILITY — RETROACTIVITY.

a. This section applies to a member who becomes disabled on or after July 1, 2000, and also applies to a member who becomes disabled prior to July 1, 2000, if the member has not terminated special service employment as of June 30, 2000.

b. To qualify for benefits under this section, a member must file a completed application with the department within one year of the member's termination of employment. A member eligible for a disability retirement allowance under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which the completed application for receipt of a disability retirement allowance under this section is approved.

14. RULES. The department shall adopt rules pursuant to chapter 17A specifying the application procedure for members pursuant to this section.

Sec. 52. Section 97B.51, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

97B.51 ALLOWANCE UPON RETIREMENT.

1. Each member has the right prior to the member's retirement date to elect to have the member's retirement allowance payable under one of the options set forth in this section. The amount of the optional retirement allowance selected in paragraph "a", "c", "d", or "e", shall be the actuarial equivalent of the amount of the retirement allowance otherwise payable to the member as determined by the system in consultation with the system's actuary. The member shall make an election by written request to the department and the election is subject to the approval of the department. If the member is married, election of an option under this section requires the written acknowledgment of the member's spouse. The member may select one of the following options:

a. At retirement, a member may designate that upon the member's death, a specified amount of money shall be paid to a named beneficiary, and the member's monthly retirement allowance shall be reduced by an actuarially determined amount to provide for the lump sum payment. The amount designated by the member must be in thousand dollar

increments and shall be limited to the amount of the member's accumulated contributions. The amount designated shall not lower the monthly retirement allowance of the member by more than one-half the amount payable as provided in paragraph "b". A member may designate a different beneficiary at any time, except as limited by an order that has been accepted by the department as complying with the requirements of section 97B.39.

b. A member may elect a retirement allowance otherwise payable to the member upon retirement under the retirement system pursuant to this chapter, to include the applicable provisions of sections 97B.49A through 97B.49G, and a death benefit as provided in section 97B.52, subsection 2.

c. A member may elect an increased retirement allowance during the member's lifetime with no death benefit after the member's retirement date.

d. (1) A member may elect to receive a decreased retirement allowance during the member's lifetime and have the decreased retirement allowance, or a designated fraction thereof, continued after the member's death to another person, called a contingent annuitant, during the lifetime of the contingent annuitant. The member cannot change the contingent annuitant after the member's retirement. In case of the election of a contingent annuitant, no death benefits, as might otherwise be provided by this chapter, will be payable upon the death of either the member or the contingent annuitant after the member's retirement.

(2) In lieu of a benefit as calculated under subparagraph (1), a member may elect to receive a decreased retirement allowance during the member's lifetime and have the decreased retirement allowance, or a designated fraction thereof, continued after the member's death to another person, called a contingent annuitant, during the lifetime of the contingent annuitant, as determined by this subparagraph. In addition, if the contingent annuitant dies prior to the death of the member, the member shall receive a retirement allowance beginning with the first month following the death of the contingent annuitant as if the member had selected the option provided by paragraph "b" at the time of the member's first retirement. The member cannot change the contingent annuitant after the member's retirement. If a contingent annuitant receives a decreased retirement allowance under this subparagraph following the death of the member, no death benefits, as might otherwise be provided by this chapter, will be payable upon the death of the contingent annuitant.

e. A member may elect to receive a decreased retirement allowance during the member's lifetime with provision that in event of the member's death during the first one hundred twenty months of retirement, monthly payments of the member's decreased retirement allowance shall be made to the member's beneficiary until a combined total of one hundred twenty monthly payments have been made to the member and the member's beneficiary. When the member designates multiple beneficiaries, the present value of the remaining payments shall be paid in a lump sum to each beneficiary, either in equal shares to the beneficiaries, or if the member specifies otherwise in a written request, in the specified proportion. A member may designate a different beneficiary at any time, except as limited by an order that has been accepted by the department as complying with the requirements of section 97B.39.

2. The election by a member of an option stated under this section shall be null and void if the member dies prior to the member's first month of entitlement.

3. A member who had elected to take an option stated in this section, may, at any time prior to retirement, revoke such an election by written notice to the department. A member shall not change or revoke an election once the first retirement allowance is paid.

Sec. 53. Section 97B.52, subsection 1, Code 1999, is amended to read as follows:

1. If a member dies prior to the member's first month of entitlement, the member's beneficiary shall be entitled to receive a death benefit equal to the greater of the amount provided in paragraph "a" or "b".

a. A lump sum payment equal to the accumulated contributions of the member at the date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by the applicable

denominator ~~shall be paid to the member's beneficiary in a lump sum payment.~~ However, a lump sum payment made to a beneficiary under this ~~subsection paragraph~~ due to the death of a member shall not be less than the amount that would have been payable on the death of the member on June 30, 1984, under this ~~subsection paragraph~~ as it appeared in the 1983 Code.

As used in this ~~subsection paragraph~~, "applicable denominator" means the following, based upon the type of membership service in which the member served either on the date of death, or if the member died after terminating service, on the date of the member's last termination of service:

a. ~~(1)~~ For regular service, the applicable denominator is thirty.

b. ~~(2)~~ For service in a protection occupation, as defined in section 97B.49B, the applicable denominator is ~~twenty-five~~ the applicable years of service for the member as defined in section 97B.49B if the member had retired on the date of death.

c. ~~(3)~~ For service as a sheriff, deputy sheriff, or airport fire fighter, as provided in section 97B.49C, the applicable denominator is twenty-two.

Effective July 1, 1978, a method of payment under this ~~subsection paragraph~~ filed with the department by a member does not apply.

b. For a member who dies on or after January 1, 2001, a lump sum payment equal to the actuarial present value of the member's accrued benefit as of the date of death. The actuarial equivalent present value of the member's accrued benefit as of the date of death shall be calculated using the same interest rate and mortality tables that are used by the system and the system's actuary under section 97B.51, and shall assume that the member would have retired at the member's earliest normal retirement date.

c. The payment of a death benefit to a designated beneficiary as provided by this subsection shall be in a lump sum payment. However, if the designated beneficiary is a sole individual, the beneficiary may elect to receive, in lieu of a lump sum payment under this subsection, a monthly annuity payable for the life of the beneficiary. The monthly annuity shall be calculated by applying the annuity tables used by the department to the lump sum payment under this subsection based on the beneficiary's age. If the designated beneficiary is more than one individual, or if the designated beneficiary is an estate, trust, church, charity, or other similar organization, a death benefit under this subsection shall only be paid in a lump sum.

Sec. 54. Section 97B.52, Code 1999, is amended by adding the following new subsection:  
NEW SUBSECTION. 1A. a. If the department determines, upon the receipt of evidence and proof, that the death of a member in special service was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a member in special service, a line of duty death benefit in an amount of one hundred thousand dollars shall be paid in a lump sum to the special service member's beneficiary. A line of duty death benefit payable under this subsection shall be in addition to any death benefit payable as provided in subsection 1.

b. A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the special service member's death.

(2) The death was caused by the intentional misconduct of the special service member or by the special service member's intent to cause the special service member's own death.

(3) The special service member was voluntarily intoxicated at the time of death.

(4) The special service member was performing the special service member's duties in a grossly negligent manner at the time of death.

(5) A beneficiary who would otherwise be entitled to a benefit under this subsection was, through the beneficiary's actions, a substantial contributing factor to the special service member's death.

Sec. 55. Section 97B.52, subsection 2, Code 1999, is amended to read as follows:

2. If a member dies on or after the first day of the member's first month of entitlement, the excess, if any, of the accumulated contributions by the member as of said date, over the total gross monthly retirement allowances received by the member under the retirement system will be paid to the member's beneficiary unless the retirement allowance is then being paid in accordance with section 97B.48 or with section 97B.51, subsection 1, ~~4, 5, or 6~~ paragraph "a", "c", "d", or "e".

Sec. 56. Section 97B.52, subsection 3, paragraph a, Code 1999, is amended to read as follows:

a. Other than as provided in subsections 1, ~~1A~~, and 2 of this section, or section 97B.51, all rights to any benefits under the retirement system shall cease upon the death of a member.

Sec. 57. Section 97B.52, subsection 4, unnumbered paragraph 1, Code 1999, is amended to read as follows:

In order to receive the death benefit, the beneficiary, heirs at law, or the estate, or any other third-party payee, must apply to the department within five years of the member's death. However, death benefits payable under this section shall not exceed the amount permitted pursuant to Internal Revenue Code section 401(a)(9) and the applicable treasury regulations.

Sec. 58. Section 97B.52, subsection 5, Code 1999, is amended to read as follows:

5. Following written notification to the department, a beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would otherwise be entitled under section 97B.51, ~~subsections 5 and 6 and this section subsection 1, paragraphs "a", "b", and "c"~~. Upon receipt of the waiver, the department shall pay the amount designated to be received by that beneficiary to the member's other surviving beneficiary or beneficiaries or to the estate of the deceased member, as elected by the beneficiary in the waiver. If the payments being waived are payable to the member's estate and an estate is not probated, the payments shall be paid to the deceased member's surviving spouse, or if there is no surviving spouse, to the member's heirs other than the beneficiary who waived the payments.

Sec. 59. Section 97B.52A, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. For a member whose first month of entitlement is July 1998 or later, but before July 2000, the member does not return to any employment with a covered employer until the member has qualified for no fewer than four calendar months of retirement benefits.

Sec. 60. Section 97B.52A, subsection 1, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For a member whose first month of entitlement is July 2000 or later, the member does not return to any employment with a covered employer until the member has qualified for at least one calendar month of retirement benefits, and the member does not return to covered employment until the member has qualified for no fewer than four calendar months of retirement benefits. For purposes of this paragraph, effective July 1, 2000, any employment with a covered employer does not include employment as an elective official or member of the general assembly if the member is not covered under this chapter for that employment.

Sec. 61. Section 97B.52A, subsection 2, Code 1999, is amended to read as follows:

2. A member may commence receiving retirement benefits under this chapter upon satisfying eligibility requirements. However, a retired member who commences receiving a retirement allowance but ~~returns to employment before qualifying for no fewer than four calendar months of retirement benefits~~ fails to meet the applicable requirements of subsection 1 does not have a bona fide retirement and any retirement allowance received by such

a member must be returned to the system together with interest earned on the retirement allowance calculated at a rate determined by the department. Until the member has repaid the retirement allowance and interest, the department may withhold any future retirement allowance for which the member may qualify.

Sec. 62. Section 97B.52A, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 4. The requirements of this section shall apply to a lump sum payment as provided by section 97B.48, subsection 1, and the payment of contributions as provided in section 97B.48A, subsection 4.

Sec. 63. Section 97B.53, Code Supplement 1999, is amended to read as follows:

97B.53 TERMINATION OF EMPLOYMENT — REFUND OPTIONS.

Membership in the retirement system, and all rights to the benefits under the system, ~~will~~ cease upon a member's termination of employment with the employer prior to the member's retirement, other than by death, and upon receipt by the member of the a refund of moneys in the member's accumulated contributions account as provided in this section.

1. Upon the termination of employment with the employer prior to retirement other than by death of a member, ~~the member's account, consisting of accumulated contributions by the member and, for a vested member who is vested on the date an application for a refund is filed, the member's share of the accumulated employer contributions for the vested member at the date of the termination, may be paid to the member upon application, except as provided in subsections 2, 5, and 6. For the purpose of this subsection, the "member's share of the accumulated employer contributions" is an amount equal to the total obtained as of any date, by accumulating each individual contribution by the employer for the member with interest plus interest dividends as provided in section 97B.70, for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years, compounded as provided in section 97B.70 accumulated employer contributions of the member multiplied by a fraction of years of service for that member as defined in section 97B.49A, 97B.49B, or 97B.49C.~~

2. If a vested member's employment is terminated prior to the member's retirement, other than by death, the member may receive a monthly retirement allowance commencing on the first day of the month in which the member attains the age of sixty-five years, if the member is then alive, or, if the member so elects in accordance with section 97B.47, commencing on the first day of the month in which the member attains the age of fifty-five or any month thereafter prior to the date the member attains the age of sixty-five years, and continuing on the first day of each month thereafter during the member's lifetime, provided the member does not receive prior to the date the member's retirement allowance is to commence a refund of ~~accumulated contributions~~ moneys in the member's account as provided under any of the provisions of this chapter. The amount of each such monthly retirement allowance shall be determined as provided in either sections 97B.49A through 97B.49G, or in section 97B.50, whichever is applicable.

~~3. The accumulated contributions account of a terminated, vested member shall be credited with interest, including interest dividends, in the manner provided in section 97B.70.~~

~~4. 3.~~ A terminated, vested member has the right, prior to the commencement of the member's retirement allowance, to receive a refund of moneys in the member's accumulated contributions account, and in the event of the death of the member prior to the commencement of the member's retirement allowance and prior to the receipt of any such refund, the benefits of authorized by subsection 1 and subsection 1A of section 97B.52 shall be paid.

~~5. 4.~~ A member has not terminated employment for purposes of this section if the member accepts other covered employment within thirty days four months after receiving the last payment of wages for covered employment, or if the member begins covered employment prior to filing a request for a refund with the department.

~~5A-5.~~ Within sixty days after a member has been issued payment for a refund of moneys in the member's accumulated contributions account, the member may repay the ~~accumulated contributions~~ moneys refunded, plus interest that would have accrued, as determined by the department, and receive credit for membership service for the period covered by the refund payment.

~~5B-6.~~ A member who does not withdraw moneys in the member's accumulated contributions account upon termination of employment may at any time request the return of the moneys in the member's accumulated contributions account, but if the member receives a return of ~~contributions~~ moneys in the member's account the member has waived all claims for any other benefits and membership rights from the fund.

7. If a member is involuntarily terminated from covered employment, has been issued payment for a refund, and is retroactively reinstated in covered employment as a remedy for an employment dispute, the member may receive credit for membership service for the period covered by the refund payment upon repayment to the department within ninety days after the date of the order or agreement requiring reinstatement of the amount of the refund plus interest that would have accrued, as determined by the department.

~~6-8.~~ The system is under no obligation to maintain the ~~accumulated contribution member~~ account of a member who terminates covered employment prior to December 31, 1998, if the member was not vested at the time of termination. A person who made contributions to the abolished system, who is entitled to a refund in accordance with the provisions of this chapter, and who has not claimed and received such a refund prior to January 1, 1964, shall, if the person makes a claim for refund after January 1, 1964, be required to submit proof satisfactory to the department of the person's entitlement to the refund. The department is under no obligation to maintain the ~~contribution member~~ accounts of such persons after January 1, 1964.

~~7-9.~~ Any member whose employment is terminated may elect to leave the moneys in the member's accumulated contributions member account in the retirement fund.

~~8-10.~~ If an employee hired to fill a permanent position terminates the employee's employment within six months from the date of employment, the employer may file a claim with the department for a refund of the funds contributed to the department by the employer for the employee.

Sec. 64. Section 97B.53A, Code 1999, is amended to read as follows:

97B.53A DUTY OF DEPARTMENT.

~~Effective July 1, 1991, upon~~ Upon a member's termination of covered employment prior to the member's retirement, the department shall send the member by first class mail, to the member's last known mailing address, a notice setting forth the balance and status of the member's account and supplemental account and an explanation of the courses of action available to the member under this chapter.

Sec. 65. Section 97B.53B, subsection 1, paragraph c, unnumbered paragraph 1, Code 1999, is amended to read as follows:

"Eligible rollover distribution" means all or any portion of a member's account and supplemental account, except that an eligible rollover distribution does not include any of the following:

Sec. 66. Section 97B.60, Code 1999, is amended to read as follows:

97B.60 ACTUARIAL INVESTIGATION.

~~At least once in each two year period~~ During calendar year 2002, and every four years thereafter, the department shall cause an actuarial investigation to be made of all experience under the retirement system. Pursuant to such an investigation, the department shall, from time to time, determine upon an actuarial basis the condition of the system and shall report to the general assembly its findings and recommendations. The department shall adopt from time to time mortality tables and all other necessary factors for use in all actuarial calculations required in connection with the retirement system.

Sec. 67. Section 97B.70, Code 1999, is amended to read as follows:

97B.70 INTEREST AND DIVIDENDS TO MEMBERS.

1. For calendar years prior to January 1, 1997, interest at two percent per annum and interest dividends declared by the department shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions and accumulated employer contributions thereby.

a. The average rate of interest earned shall be determined upon the following basis:

(1) Investment income shall include interest and cash dividends on stock.

(2) Investment income shall be accounted for on an accrual basis.

(3) Capital gains and losses, realized or unrealized, shall not be included in investment income.

(4) Mean assets shall include fixed income investments valued at cost or on an amortized basis, and common stocks at market values or cost, whichever is lower.

(5) The average rate of earned interest shall be the quotient of the investment income and the mean assets of the retirement fund.

b. The interest dividend shall be determined within sixty days after the end of each calendar year as follows:

The dividend rate for a calendar year shall be the excess of the average rate of interest earned for the year over the statutory two percent rate plus twenty-five hundredths of one percent. The average rate of interest earned and the interest dividend rate in percent shall be calculated to the nearest one hundredth, that is, to two decimal places. Interest and interest dividends calculated pursuant to this subsection shall be compounded annually.

2. For calendar years beginning January 1, 1997, a per annum interest rate at one percent above the interest rate on one-year certificates of deposit shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions and accumulated employer contributions account. For purposes of this subsection, the interest rate on one-year certificates of deposit shall be determined by the department based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one-quarter of the annual interest rate to the sum of the accumulated contributions and the accumulated employer contributions as of the end of the previous calendar quarter.

3. Interest shall be credited to the accumulated contributions and accumulated employer contributions accounts, and supplemental accounts of active members, inactive vested members, and, effective January 1, 1999, to inactive nonvested members, until the quarter prior to the quarter in which the member's first retirement allowance is paid or in which the member is issued a refund under section 97B.53, or in which a death benefit is issued.

4. Prior to January 1, 1999, interest and interest dividends shall be credited to the accumulated contributions and accumulated employer contributions account of a person who leaves the contributions in the retirement fund upon termination from covered employment prior to achieving vested status, but who subsequently returns to covered employment. Upon return to covered employment but prior to January 1, 1999, interest and interest dividends shall be credited to the accumulated contributions and accumulated employer contributions account of the person commencing upon the date on which the person has covered wages.

5. If the department no longer maintains the accumulated contribution and accumulated employer contributions account of the person pursuant to this chapter, but the person submits satisfactory proof to the department that the person, or the person's employer, did make the contributions that should be included in the accumulated contributions and accumulated employer contributions account, the department shall credit interest and interest dividends in the manner provided in subsection 4.

Sec. 68. Section 97B.73, subsection 1, Code 1999, is amended to read as follows:

1. a. A vested or retired member who has one or more full calendar years of covered wages who was in public employment comparable to employment covered under this chapter in



another state or in the federal government, or who was a member of another public retirement system in this state, including but not limited to the teachers insurance annuity association-college retirement equities fund, but who was not retired under that system, upon submitting verification of membership and service in the other public system to the department, including proof that the member has no further claim upon a retirement benefit from that other public system, may make contributions as provided by this section to the system either for the entire period of service in the other public system, or for partial service in the other public system in increments of one or more calendar quarters. If the member wishes to transfer only a portion of the service value of another public system to this system and the other public system allows a partial withdrawal of a member's system credits, the member shall receive credit for membership service in this system equivalent to the period of service transferred from the other public system.

b. A vested or retired member who has five or more full calendar years of covered wages who was in public employment comparable to employment covered under this chapter in a qualified Canadian governmental entity may make contributions as provided by this section to the system and receive service credit, in increments of one or more calendar quarters, for up to the lesser of twenty quarters of service credit for such employment or the entire period of service in the other public system. Prior to receiving service credit, the member shall submit verification of membership and service in the other public system to the department, including proof that the member has no further claim upon a retirement benefit from that other public system. If the member wishes to transfer only a portion of the service value of another public system to this system and the other public system allows a partial withdrawal of a member's system credits, the member shall receive credit for membership service in this system equivalent to the period of service transferred from the other public system. For purposes of this paragraph, "qualified Canadian governmental entity" means an elementary school, secondary school, college, or university that is organized, administered, and primarily supported by the provincial, territorial, or federal governments of Canada, or any combination of the same.

Sec. 69. NEW SECTION. 97B.73B PATIENT ADVOCATES — UNPAID CONTRIBUTIONS — SERVICE PURCHASE.

1. Notwithstanding the provisions of section 97B.9, to the contrary, unpaid contributions for a person classified as a patient advocate under section 229.19, for service as a patient advocate prior to July 1, 2000, shall be determined and collected as provided under section 97B.9, subsection 4, but shall be limited to the collection of underpaid contributions for a maximum of one year of service.

2. A patient advocate who becomes covered under this chapter and for whom underpaid contributions for one year of service have been paid shall be eligible to purchase membership service for service as a patient advocate prior to July 1, 2000, in excess of the one year of service provided in this section by paying the department of personnel an amount determined as follows:

a. For a purchase of membership service prior to July 1, 2002, the total of the employee and employer contributions, without interest, on the covered wages that would have been reported to the department under the provisions of this chapter in effect for the applicable period of service.

b. For a purchase of membership service on or after July 1, 2002, the actuarial cost of the service purchase in a manner as provided in section 97B.73.

Sec. 70. NEW SECTION. 97B.80A PUBLIC EMPLOYMENT SERVICE CREDIT.

1. A vested or retired member who has five or more full calendar years of covered wages and who at any time was employed by a covered employer under this chapter but at the time of the employment was not covered by this chapter and did not opt out of coverage under this chapter, upon submitting verification of the public employment and the dates of the public employment, may make contributions to the system for up to the lesser of twenty quarters of service credit for such public employment or the entire period of the public employment, in

increments of one or more calendar quarters, and receive credit for membership service and prior service for the period of time for which the contributions are made.

2. The contributions required to be made for purposes of this section shall be in an amount equal to the actuarial cost of the service purchase. For purposes of this subsection, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

3. The verification of the public employment and the dates of such public employment shall be made by the department prior to receiving contributions from the member.

4. A member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which the member pays contributions under this section.

5. A purchase of service made in accordance with this section by a retired reemployed member shall be applied to either the member's original retirement allowance, or to the member's reemployment service, whichever is more beneficial to the member. If applied to a member's original retirement allowance, or to the member's reemployment service after the retirement allowance payments for such service begin, the member is eligible to receive retroactive adjustment payments for no more than six months prior to completion of the purchase.

6. The department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 71. NEW SECTION. 97B.80B VOLUNTEER PUBLIC SERVICE CREDIT.

1. A vested or retired member who has five or more full calendar years of covered wages and who at any time was in full-time volunteer public service, upon submitting verification of the full-time volunteer public service and the dates of the service, may make contributions to the system for up to the lesser of twenty quarters of service credit for such volunteer public service or the entire period of the volunteer public service, in increments of one or more calendar quarters, and receive credit for membership service and prior service for the period of time for which the contributions are made. For purposes of this section, "full-time volunteer public service" means service in the federal peace corps program.

2. The contributions required to be made for purposes of this section shall be in an amount equal to the actuarial cost of the service purchase. For purposes of this subsection, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

3. The verification of the full-time volunteer public service and the dates of such service shall be made by the department prior to receiving contributions from the member.

4. A member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which the member pays contributions under this section.

5. A purchase of service made in accordance with this section by a retired reemployed member shall be applied to either the member's original retirement allowance, or to the member's reemployment service, whichever is more beneficial to the member. If applied to a member's original retirement allowance, or to the member's reemployment service after the retirement allowance payments for such service begin, the member is eligible to receive retroactive adjustment payments for no more than six months prior to completion of the purchase.

6. The department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 72. NEW SECTION. 97B.82 PURCHASE OF SERVICE CREDIT — DIRECT ROLLOVERS.

Effective July 1, 2002, a member may purchase any service credit permitted under this chapter by means of a direct rollover pursuant to rules adopted by the department and consistent with applicable requirements of the Internal Revenue Code. For purposes of this section, a “direct rollover” means a transfer to the system of an eligible rollover distribution from a qualified plan, including an eligible rollover distribution of qualified plan assets made through a conduit eligible retirement plan, all as described under the Internal Revenue Code. The amount of the direct rollover into the system cannot exceed the cost of the service purchase by a member under this chapter. Once a direct rollover is made, the member must forfeit the applicable service credit under the qualified plan from which the eligible rollover distribution is received.

Sec. 73. Section 97B.13, Code 1999, is repealed.

Sec. 74. IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM — PAYMENT OF ALLOWANCES — ACTIVE MEMBER RETIREMENT.<sup>2</sup> Notwithstanding any provision of chapter 97B to the contrary, an eligible member who terminates employment covered by chapter 97B on or after January 1, 2000, shall have the member’s monthly retirement allowance recalculated using the applicable formula for determining a retirement allowance pursuant to sections 97B.49A through 97B.49G, as applicable, in place at the time of the member’s termination from employment. For purposes of this section, an “eligible member” is a member who commenced receiving a retirement allowance pursuant to section 97B.48, subsection 3, prior to July 1, 2000.

Sec. 75. IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM — DEATH BENEFIT ELECTION.

1. Notwithstanding any provision of chapter 97B to the contrary, an eligible beneficiary may elect to receive a death benefit as provided by this section in an amount as authorized pursuant to section 53 of this Act. For purposes of this section, an “eligible beneficiary” means a person who is eligible to receive, or has received, a death benefit pursuant to Iowa Code section 97B.52, subsection 1, Code 1999, as a beneficiary of a member of the Iowa public employees’ retirement system who died on or after January 1, 1999, but before the date section 53 of this Act is implemented pursuant to section 81 of this Act.

2. An eligible beneficiary may elect to receive a death benefit in an amount as provided in section 53 of this Act in lieu of a benefit as provided pursuant to section 97B.52, subsection 1, Code 1999, by filing a valid election with the Iowa public employees’ retirement system in a manner prescribed by the system no later than one year following the date section 53 of this Act is implemented pursuant to section 81 of this Act.

3. An eligible beneficiary who has received a death benefit pursuant to section 97B.52, subsection 1, Code 1999, but who files an election to receive a death benefit as provided in this section shall make arrangements with the Iowa public employees’ retirement system to repay any death benefits paid by the system to the eligible beneficiary prior to receipt of a death benefit as provided in this section.

4. The Iowa public employees’ retirement system shall make all reasonable efforts to notify, in writing, each eligible beneficiary of the ability to elect to receive a death benefit as provided in this section in lieu of a death benefit provided pursuant to section 97B.52, subsection 1, Code 1999.

Sec. 76. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. Section 17 of this Act, amending section 97B.1A, subsection 24, paragraph “b”, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2000, and is applicable on and after that date.

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<sup>2</sup> “ELIGIBLE MEMBER RETIREMENT” probably intended

Sec. 77. **EFFECTIVE DATE.** Section 44 of this Act, amending section 97B.49F, subsection 2, paragraph “c”, being deemed of immediate importance, takes effect upon enactment.

Sec. 78. **APPLICABILITY.** Section 97B.51, subsection 1, paragraph “d”, subparagraph (2), as enacted in section 52 of this Act, shall be applicable on or after July 1, 2001.

Sec. 79. **EFFECTIVE DATE — RETROACTIVE APPLICABILITY.** Section 74 of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2000, and is applicable on and after that date.

Sec. 80. **IMPLEMENTATION PROVISION.** The department of personnel shall implement the amendment to section 97B.50, subsection 1, as provided in section 48 of this Act, on January 1, 2001, or on the date that the department determines that the most recent annual actuarial valuation of the system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the costs of the amendment to section 97B.50, subsection 1, whichever is later, after meeting the other established priorities of the system. As used in this section, “other established priorities of the system” means the implementation of the amendment to section 97B.52, subsection 1, as provided in section 53 of this Act. However, the amendment to section 97B.50, subsection 1, shall not be implemented until the Iowa public employees’ retirement system has received a determination letter from the federal internal revenue service approving the retirement system plan’s qualified status under Internal Revenue Code section 401(a), as amended by section 97B.50, subsection 1. In addition, notwithstanding section 97B.49H, the department shall not credit amounts to active member supplemental accounts provided in section 97B.49H for the calendar year beginning January 1, 2001, and each subsequent calendar year, until the amendment to section 97B.50, subsection 1, is implemented.

Sec. 81. **IMPLEMENTATION PROVISION.** The department of personnel shall implement the amendment to section 97B.52, subsection 1, as provided in section 53 of this Act on January 1, 2001, or on the date that the department determines that the most recent annual actuarial valuation of the system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the costs of the amendment to section 97B.52, subsection 1, whichever is later. However, notwithstanding section 97B.49H, the department shall not credit amounts to active member supplemental accounts provided in section 97B.49H for the calendar year beginning January 1, 2001, and each subsequent calendar year, until the amendment to section 97B.52, subsection 1, is implemented.

Sec. 82. **IMPLEMENTATION DATE.** Section 72 of this Act, creating new section 97B.82 which establishes a direct rollover for the purchase of service credit, shall not be implemented until the Iowa public employees’ retirement system has received a determination letter from the federal internal revenue service approving the retirement system plan’s qualified status under Internal Revenue Code section 401(a), as amended by section 97B.82.

Sec. 83. **IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM — PENSION PORTABILITY STUDY — REPORT.** The Iowa public employees’ retirement system division shall conduct a study to consider various proposals to provide persons covered under the Iowa public employees’ retirement system increased portability of pensions earned prior to coverage under the Iowa public employees’ retirement system and of the pension earned under the Iowa public employees’ retirement system. In conducting its study, the Iowa public employees’ retirement system division shall consider proposals for allowing employees covered under the Iowa public employees’ retirement system to purchase additional service credit under the Iowa public employees’ retirement system based on prior public sector or private sector employment that is not covered under the system as well as proposals for enhancing the ability of employees covered under the Iowa public employees’ retirement system to transfer a greater portion of the value of the pension earned under the Iowa public employees’ retirement system to another pension plan upon the employee’s termination of employment

covered by the Iowa public employees' retirement system. On or before September 1, 2001, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems committee established in section 97D.4, which contains its findings and recommendations, including any proposal or proposals for enhancing pension portability for persons covered by the Iowa public employees' retirement system. The report shall also contain any applicable actuarial information concerning the costs of any proposal or proposals included in the report.

### DIVISION III STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

Sec. 84. Section 400.8, subsection 1, Code 1999, is amended to read as follows:

1. The commission, when necessary under the rules, including minimum and maximum age limits, which shall be prescribed and published in advance by the commission and posted in the city hall, shall hold examinations for the purpose of determining the qualifications of applicants for positions under civil service, other than promotions, which examinations shall be practical in character and shall relate to matters which will fairly test the mental and physical ability of the applicant to discharge the duties of the position to which the applicant seeks appointment. The physical examination of applicants for appointment to the positions of police officer, police matron, or fire fighter shall be held in accordance with medical protocols established by the board of trustees of the fire and police retirement system established by section 411.5 and shall be conducted by the medical board as established in section 411.5. The board of trustees may change the medical protocols at any time the board so determines. ~~The commission shall conduct a medical physical examination of an applicant for the position of police officer, police matron, or fire fighter~~ shall be conducted after a conditional offer of employment has been made to the applicant. An applicant shall not be discriminated against on the basis of height, weight, sex, or race in determining physical or mental ability of the applicant. Reasonable rules relating to strength, agility, and general health of applicants shall be prescribed. The costs of the physical examination required under this subsection shall be paid from the trust and agency fund of the city.

Sec. 85. NEW SECTION. 400.8A GUIDELINES FOR ONGOING FITNESS FOR POLICE OFFICERS AND FIRE FIGHTERS.

The board of trustees of the fire and police retirement system established by section 411.5, in consultation with the medical board established in section 411.5, shall establish and maintain protocols and guidelines for ongoing wellness and fitness for police officers and fire fighters while in service. The board of trustees may change the protocols and guidelines at any time the board so determines. The protocols and guidelines shall be established by the board of trustees for the consideration of cities covered by this chapter and may be applied by a city for the purpose of determining continued wellness and fitness for members of the city's police and fire departments. However, the protocols and guidelines shall not be applied to members of a police or fire department of a city who are covered by chapter 20 except through the collective bargaining process as provided under chapter 20. The medical board established in section 411.5 shall provide to cities and fire and police departments assistance regarding the possible implementation and operation of the protocols and guidelines for ongoing wellness and fitness provided by this section. For purposes of this section, "wellness and fitness" means the process by which police officers and fire fighters maintain fitness for duty.

Sec. 86. Section 411.1, subsection 6, Code 1999, is amended to read as follows:

6. "Child" means only surviving issue of a deceased active or retired member, or a child legally adopted by a deceased member prior to the member's retirement. "Child" includes only an individual who is under the age of eighteen years, an individual who is under the age of twenty-two years and is a full-time student, or an individual who is disabled at the

time under the definitions used in section 402 202 of the Social Security Act as amended if the disability occurred to the individual during the time the individual was under the age of eighteen years and the parent of the individual was an active member of the system.

Sec. 87. Section 411.1, subsection 10, Code 1999, is amended to read as follows:

10. "Medical board" shall mean the ~~board of physicians~~ single medical provider network designated by the system as the medical board as provided for in section 411.5.

Sec. 88. Section 411.1, subsection 12, Code 1999, is amended to read as follows:

12. "Membership service" shall mean service as a ~~police officers~~ officer or a ~~fire fighters~~ fighter rendered ~~since last becoming a member, or, where membership is regained as provided in this chapter, all of such service for a city which is credited as service pursuant to section 411.4.~~

Sec. 89. Section 411.1, subsection 19, Code 1999, is amended to read as follows:

19. "Surviving spouse" shall mean the surviving spouse of a ~~marriage solemnized prior to retirement of a deceased member from active service.~~ Surviving spouse shall include a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section 598.17 grants the former spouse rights of a spouse under this chapter. ~~If there is no surviving spouse of a marriage solemnized prior to retirement of a deceased member, surviving spouse includes a surviving spouse of a marriage of two years or more duration solemnized subsequent to retirement of the member.~~

Sec. 90. Section 411.1A, Code 1999, is amended to read as follows:

#### 411.1A PURPOSE OF CHAPTER.

The purpose of this chapter is to promote economy and efficiency in the municipal public safety service by ~~providing~~ doing the following:

1. Provide an orderly means for police officers and fire fighters to have a retirement system which will provide for the payment of pensions to retired members and members incurring disabilities, and to the surviving spouses and dependents of deceased members.

2. Provide a comprehensive disability program for police officers and fire fighters to include standards for entrance physical examinations, guidelines for ongoing fitness and wellness, disability pensions, and postdisability retirement compliance requirements.

Sec. 91. Section 411.3, subsection 2, Code 1999, is amended to read as follows:

2. Should any member ~~in any period of five consecutive years after last becoming a member, be absent from service for more than four years~~ cease to be employed as a police officer or fire fighter by a city, or should the member become a beneficiary or die, the member shall thereupon cease to be a member of the system.

Sec. 92. Section 411.4, Code 1999, is amended to read as follows:

#### 411.4 SERVICE CREDITABLE.

1. Service for fewer than six months of a year is not creditable as service. Service of six months or more of a year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the system allow credit as service for any period of more than one month duration during which the member was absent without pay.

2. The system shall credit as service for a member of the system a previous period of service ~~for which the only under any of the following circumstances:~~

a. The member had withdrawn the member's accumulated contributions, as defined in section 411.21, for the previous period of service.

b. The member returned to service after an absence of service of a period of less than four years from the last day of the prior period of service.

c. The member returned to service after an absence of service of a period of four or more years from the last day of the prior period of service and the member had sufficient service as of the last day of the prior period of service to have been entitled to a retirement allowance on that date under section 411.6, subsection 1, paragraph "b".

Sec. 93. Section 411.5, subsection 6, Code 1999, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** c. Notwithstanding any provision of chapter 22 to the contrary, the system's records may be released to any political subdivision, instrumentality, or agency of the state solely for use in a civil or criminal law enforcement activity pursuant to the requirements of this paragraph. To obtain the records, the political subdivision, instrumentality, or agency of the state shall, in writing, certify to the system that the activity is authorized by law, provide a written description of the information desired, and describe the law enforcement activity for which the information is sought. The system shall not be civilly or criminally liable for the release of records in accordance with the requirements of this paragraph.

Sec. 94. Section 411.5, subsection 8, Code 1999, is amended to read as follows:

8. **MEDICAL BOARD.** ~~The system board of trustees shall designate a single medical provider network as the medical board to be composed of three physicians who for the system. The medical board shall arrange for and pass upon all medical examinations required under the provisions of chapter 400 and this chapter, except that for and shall assist the system in all aspects of the comprehensive disability program described in section 411.1A. For examinations required because of disability three physicians, a physician from the university of Iowa hospitals and clinics who medical board specializing in occupational medicine, and a second physician specializing in an appropriate field of medicine as determined by the occupational medicine physician shall pass upon the medical examinations required for disability retirements, and shall report to the system in writing its their conclusions and recommendations upon all matters referred to it the medical board. Each report of a medical examination under section 411.6, subsections 3 and 5, shall include the medical board's findings in accordance with section 411.6 as to the extent of the member's physical impairment.~~

Sec. 95. Section 411.6, subsection 2, Code 1999, is amended to read as follows:

2. **ALLOWANCE ON SERVICE RETIREMENT.**

a. The service retirement allowance for a member who terminates service, other than by death or disability, prior to July 1, 1990, shall consist of a pension which equals fifty percent of the member's average final compensation.

b. The service retirement allowance for a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1992, shall consist of a pension which equals fifty-four percent of the member's average final compensation.

c. Commencing July 1, 1992, for members who terminate service, other than by death or disability, on or after that date, but before July 1, 2000, the system shall increase the percentage multiplier of the member's average final compensation by an additional two percent each July 1 until reaching sixty percent of the member's average final compensation. The applicable percentage multiplier shall be the rate in effect on the date of the member's termination from service.

d. Upon retirement from service on or after July 1, 2000, a member shall receive a service retirement allowance which shall consist of a pension which equals sixty-six percent of the member's average final compensation.

~~d. e.~~ Commencing July 1, 1990, if the member has completed more than twenty-two years of creditable service, the service retirement allowance shall consist of a pension which equals the amount provided in ~~paragraphs~~ paragraph "b", and "c", or "d", plus an additional percentage as set forth below:

(1) For a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1991, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added three-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(2) For a member who terminates service, other than by death or disability, on or after July 1, 1991, but before October 16, 1992, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(3) For a member who terminates service, other than by death or disability, on or after October 16, 1992, but before July 1, 1998, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

(4) For a member who terminates service, other than by death or disability, on or after July 1, 1998, but before July 1, 2000, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added one and one-half percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

(5) For a member who terminates service, other than by death or disability, on or after July 1, 2000, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added two percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 96. Section 411.6, subsection 5, paragraph b, Code 1999, is amended to read as follows:

b. If a member in service or the chief of the police or fire departments becomes incapacitated for duty as a natural or proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time or place or while acting, pursuant to order, outside the city by which the member is regularly employed, the member, upon being found to be temporarily incapacitated following a medical examination as directed by the city, is entitled to receive the member's full pay and allowances from the city's general fund until re-examined as directed by the city and found to be fully recovered or until the city determines that the member is likely to be permanently disabled. The If the temporary incapacity of a member continues more than sixty days, or if the city expects the incapacity to continue more than sixty days, the city shall notify the system of the temporary incapacity. Upon notification by a city, the system may refer the matter to the medical board for review and consultation with the member's treating physician during the temporary incapacity. Except as provided by this paragraph, the board of trustees of the statewide system has no jurisdiction over these matters until the city determines that the disability is likely to be permanent.

Sec. 97. Section 411.6, subsection 6, paragraph c, Code 1999, is amended to read as follows:

c. Upon retirement for accidental disability on or after July 1, 1998, a member shall receive an accidental disability retirement allowance which shall consist of a pension in an amount equal to the greater of sixty percent of the member's average final compensation or the retirement allowance that the member would receive under subsection 2 if the member has had attained fifty-five years of age.

Sec. 98. Section 411.6, subsection 7, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the system may, and upon the member's application shall, require any disability beneficiary who has not yet attained age fifty-five to undergo a medical examination at a place designated by the



medical board. The examination shall be made by the medical board or in special cases, by an additional physician or physicians designated by such board. If any disability beneficiary who has not attained the age of fifty-five refuses to submit to the medical examination, the member's allowance may be discontinued until withdrawal of such refusal, and if the refusal continues for one year all rights in and to the member's pension may be revoked by the system. For a disability beneficiary who has not attained the age of fifty-five and whose entitlement to a disability retirement commenced on or after July 1, 2000, the medical board may, as part of the examination required by this subsection, suggest appropriate medical treatment or rehabilitation if, in the opinion of the medical board, the recommended treatment or rehabilitation would likely restore the disability beneficiary to duty.

Sec. 99. Section 411.6, subsection 7, paragraph a, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Should any beneficiary for either ordinary or accidental disability, except a beneficiary who is fifty-five years of age or over ~~and would have completed twenty-two years of service if the beneficiary had remained in active service~~, be engaged in a gainful occupation paying more than the difference between the member's net retirement allowance and one and one-half times the earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement, then the amount of the member's retirement allowance shall be reduced to an amount such that the member's net retirement allowance plus the amount earned by the member shall equal one and one-half times the amount of the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. Should the member's ~~earning capacity~~ earnings be later changed, the amount of the member's retirement allowance may be further modified, provided that the new retirement allowance shall not exceed the amount of the retirement allowance adjusted by annual readjustments of pensions pursuant to subsection 12 of this section nor an amount which would cause the member's net retirement allowance, when added to the amount earned by the beneficiary, to equal one and one-half times the amount of the earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which the member was retired at age fifty-five or greater, shall not again become a member of the retirement system and shall have the member's retirement allowance suspended while in active service. If the rank or position held by the retired member is subsequently abolished, adjustments to the allowable limit on the amount of income which can be earned in a gainful occupation shall be computed by the board of trustees as though such rank or position had not been abolished and salary increases had been granted to such rank or position on the same basis as increases granted to other ranks and positions in the department. For purposes of this paragraph, "net retirement allowance" means the amount determined by subtracting the amount paid during the previous calendar year by the beneficiary for health insurance or similar health care coverage for the beneficiary and the beneficiary's dependents from the amount of the member's retirement allowance paid for that year pursuant to this chapter. The beneficiary shall submit sufficient documentation to the system to permit the system to determine the member's net retirement allowance for the applicable year.

Sec. 100. Section 411.6, subsection 7, Code 1999, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** c. Should a disability beneficiary under age fifty-five be employed in a public safety occupation, the disability beneficiary's retirement allowance shall cease. Notwithstanding any provision of this chapter to the contrary, if a disability beneficiary is employed in a public safety occupation that would otherwise constitute membership service, the disability beneficiary shall not become a member of the system. For purposes of this

paragraph, "public safety occupation" means a peace officer, as defined in section 97A.1; a protection occupation, as defined in section 97B.49B; a sheriff, deputy sheriff, or airport fire fighter, as defined in section 97B.49C; and a police officer or fire fighter as defined in section 411.1, who was not restored to active service as provided by this subsection.

Sec. 101. Section 411.6, subsection 8, Code 1999, is amended to read as follows:

8. ORDINARY DEATH BENEFIT.

a. Upon the receipt of proof of the death of a member in service, or a member not in service who has completed four or more years of service as provided in subsection 1, paragraph "b", there shall be paid to the person designated by the member to the system as the member's beneficiary, if the member has had one or more years of membership service and no pension is payable under subsection 9, an the greater of the following:

(1) An amount equal to fifty percent of the compensation earnable by the member during the year immediately preceding the member's death if the member is in service, or an amount equal to fifty percent of the compensation earned by the member during the member's last year of service if the member is not in service.

(2) An amount the member would have been entitled to withdraw pursuant to section 411.23 if the member had terminated service on the date of the member's death.

b. In lieu of the payment specified in paragraph "a", a beneficiary meeting the qualifications of paragraph "c" may elect to receive a monthly pension equal to one-twelfth of forty percent of the average final compensation of the member, but not less than twenty percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a beneficiary of a deceased member of a fire department, or the highest grade in the rank of police patrol officer, for a beneficiary of a deceased member of a police department, if the member was in service at the time of death. For a member not in service at the time of death, the pension shall be reduced as provided in subsection 1, paragraph "b".

For a member not in service at the time of death, the pension shall be paid commencing when the member would have attained the age of fifty-five except that if there is a child of the member, the pension shall be paid commencing with the member's death until the children reach the age of eighteen, or twenty-two if applicable child of the member no longer meets the definition of child as provided in section 411.1. The pension shall resume ~~commencing~~ when the member would have attained the age of fifty-five.

For a member in service at the time of death, the pension shall be paid commencing with the member's death. In addition to the pension, there shall also be paid for each child of a member, a monthly pension equal to six percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a child of a deceased member of a fire department, or the highest grade in the rank of police patrol officer, for a child of a deceased member of a police department.

Notwithstanding section 411.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to the higher of one-twelfth of forty percent of the average final compensation of the member, or the amount the surviving spouse was receiving on July 1, 1990.

c. The pension under paragraph "b" may be selected only by the following beneficiaries:

(1) The spouse.

(2) If there is no spouse, or if the spouse dies and there is a child of a member, then the ~~guardian of the member's child or children, divided as the system determines, to continue as a joint and survivor pension until every child of the member dies or attains the age of eighteen, or twenty-two if applicable in equal shares. The pension to each child shall terminate when the child no longer meets the definition of child in section 411.1.~~

(3) If there is no surviving spouse or child, then the member's dependent father or mother, or both, as the system determines, to continue until remarriage or death.

~~d. If there is no nomination of the member failed to designate a beneficiary, or if the beneficiary designated by the member predeceases the member, the benefits provided in paragraph "a" of this subsection shall be paid to the member's estate, as follows in the following order of priority:~~

- ~~(1) To the member's surviving spouse.~~
- ~~(2) To the member's surviving children, including any adult children, in equal shares.~~
- ~~(3) To the member's surviving parents, in equal shares.~~
- ~~(4) To the member's estate.~~
- ~~(5) To the member's heirs if the estate is not probated.~~

Sec. 102. Section 411.6, subsection 9, Code 1999, is amended to read as follows:

9. ACCIDENTAL DEATH BENEFIT.

~~a. If, upon the receipt of evidence and proof from the chief of the police or fire department that the death of a member in service was the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, the system decides that death was so caused in the performance of duty, there shall be paid, in lieu of the ordinary death benefit provided in subsection 8, to the member's estate or to such person having an insurable interest in the member's life as the member has nominated by written designation duly executed and filed with the system, the benefits an accidental death benefit as set forth in paragraphs "a" and "b" of this subsection. Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison, or gases.~~

~~a. b. A An accidental death benefit pension equal to one-half of the average final compensation of the member shall be paid to the member's spouse, children or dependent parents as provided in paragraphs "c", "d", and "e" of subsection 8 of this section. There as follows:~~

- ~~(1) To the member's spouse.~~
- ~~(2) If there is no spouse, or if the spouse dies and there is a child of the member, then to the member's child or children in equal shares. The pension to each child shall terminate when the child no longer meets the definition of child in section 411.1.~~
- ~~(3) If there is no surviving spouse or child, then to the member's dependent father or mother, or both, as the system determines, to continue until remarriage or death.~~

~~c. In addition to the accidental death benefit pension provided in paragraph "b", there shall also be paid for each child of a member a monthly pension equal to six percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a child of a deceased member of a fire department, or holding the highest grade in the rank of police patrol officer, for a child of a deceased member of a police department.~~

~~d. A person eligible to receive the pension payable under paragraph "b" of this subsection may elect to receive the benefit payable under subsection 8, paragraph "a", in lieu of the pension provided in paragraph "b" of this subsection.~~

~~b. e. If there is no spouse, child, or dependent parent surviving a deceased member person entitled to the pension payable under paragraph "b" of this subsection, the death shall be treated as an ordinary death case and the benefit payable under subsection 8, paragraph "a", in lieu of the pension provided in paragraph "a" of this subsection, shall be paid to the member's estate as provided by that subsection.~~

~~Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison, or gases.~~

Sec. 103. Section 411.6, subsection 11, Code 1999, is amended to read as follows:

11. Pension to spouse and children of deceased pensioned member. In the event of the death of any member receiving a retirement allowance under the provisions of subsections 2, 4, or 6 of this section there shall be paid a pension:

a. To the spouse, equal to one-half the amount received by the deceased beneficiary, but in no instance less than twenty percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a beneficiary of a deceased member of the fire department, or the highest grade in the rank of police patrol officer, for a beneficiary of a deceased member of a police department, and in addition a monthly pension equal to the monthly pension payable under subsection 9 of this section for each child ~~under eighteen years of age or twenty-two years of age if applicable~~; or

b. If the spouse dies either prior or subsequent to the death of the member, to the guardian of each surviving child, a monthly pension equal to the monthly pension payable under subsection 9 of this section for the support of the child.

Sec. 104. Section 411.6, Code 1999, is amended by adding the following new subsection:  
**NEW SUBSECTION. 14. BENEFICIARY DESIGNATION.** A member may designate, in writing on a form prescribed by the system, any person or persons to whom the system will pay a death benefit under this section in the event of the member's death. If the member is married at the time a designation is signed, a designation of a beneficiary other than the member's spouse shall not be valid unless the member's spouse consents in writing to the designation. A designation filed with the system shall be deemed revoked if, subsequent to the designation, a new designation is filed with the system, the member marries, or the member divorces the individual who was the member's named beneficiary.

Sec. 105. Section 411.6, Code 1999, is amended by adding the following new subsection:  
**NEW SUBSECTION. 15. LINE OF DUTY DEATH BENEFIT.**

a. If, upon the receipt of evidence and proof from the chief of the police or fire department that the death of a member in service was the direct and proximate result of a traumatic personal injury incurred in the line of duty, the system decides that death was so caused, there shall be paid, to a person authorized to receive an accidental death benefit as provided in subsection 9, paragraph "b", the amount of one hundred thousand dollars, which shall be payable in a lump sum.

b. A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the member's death.

(2) The death was caused by the intentional misconduct of the member or by the member's intent to cause the member's own death.

(3) The member was voluntarily intoxicated at the time of death.

(4) The member was performing the member's duties in a grossly negligent manner at the time of death.

(5) An individual who would otherwise be entitled to a benefit under this subsection was, through the individual's actions, a substantial contributing factor to the member's death.

Sec. 106. Section 411.6, Code 1999, is amended by adding the following new subsection:  
**NEW SUBSECTION. 16. INELIGIBILITY FOR DISABILITY BENEFITS.**

a. A member otherwise eligible to receive a disability retirement benefit under this chapter shall not be eligible to receive such a benefit if the system determines that any of the following conditions for ineligibility apply:

(1) The disability would not exist but for the member's chemical dependency, as defined in section 125.2, on a schedule I controlled substance, as defined in section 124.204, or the member's chemical dependency on a schedule II controlled substance, as defined in section 124.206, resulting from the inappropriate use of the schedule II controlled substance.

(2) The disability is a mental disability proximately caused by appropriate disciplinary actions taken against the member, or by conflicts with a superior or coworker if the superior or coworker was acting legally and appropriately toward the member when the conflicts occurred.

b. A member otherwise eligible to receive a disability retirement benefit under this chapter, or who is receiving such a benefit, shall not be eligible to receive such a benefit beginning with the month following the determination by the system that the disability would not exist but for the action of the member for which the member has been convicted of a felony.

c. A member eligible to commence receiving a disability benefit on or after July 1, 2000, may be ineligible to receive a disability retirement benefit if the system determines that the member's alcoholism or drug addiction was a contributing factor material to the determination of the member's disability. Upon a determination that the member's alcoholism or drug addiction was a contributing factor in the member's disability, the system shall direct the member to undergo substance abuse treatment that the medical board determines is appropriate to treat the member's alcoholism or drug addiction. After the end of a twenty-four-month period following the member's first month of entitlement to a disability benefit, the system shall reevaluate the member's disability. If the system determines that the member failed to comply with the treatment program prescribed by this paragraph and that the member would not be disabled but for the member's alcoholism or drug addiction, the member's entitlement to a disability benefit under this chapter shall terminate effective the first day of the first month following the month the member is notified of the system's determination.

Sec. 107. Section 411.6, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 17. LIMITATIONS ON BENEFITS — PRISONERS.

a. An individual who is otherwise entitled to a retirement allowance under this chapter shall not receive a retirement allowance for any month during which both of the following conditions exist:

(1) The individual is confined in a jail, prison, or correctional facility pursuant to the individual's conviction of a felony.

(2) The individual has a spouse, or a child or children, as defined in section 411.1.

b. The amount of the retirement allowance not paid to the individual under paragraph "a" shall be paid in the following order of priority:

(1) To the individual's spouse, if any.

(2) If there is no spouse, then to the individual's child or children, as defined in section 411.1.

c. This subsection shall not be construed in a manner that impairs the rights of any individual under a marital property, spousal support, or child support order. In addition, this subsection shall not be construed to impair the statutory rights of a governmental entity, including, but not limited to, the right of a governmental entity to collect an amount for deposit in the victim compensation fund established in chapter 915.

Sec. 108. Section 411.11, Code 1999, is amended to read as follows:

411.11 CONTRIBUTIONS BY THE CITY.

1. On or before January 1 of each year the system shall certify to the superintendent of public safety of each participating city the amounts which will become due and payable during the year next following to the fire and police retirement fund. The amounts so certified shall be included by the superintendent of public safety in the annual budget estimate. The amounts so certified shall be appropriated by the respective cities and transferred to the retirement system for the ensuing year. The cities shall annually levy a tax sufficient in amount to cover the appropriations.

2. Amounts paid by a city to a member as back pay that would have constituted earnable compensation if paid when earned shall be allocated by the system as earnable compensation to the period or periods for which paid and employer and employee contributions shall be paid to the system for the amounts. The contribution rate to be applied to such amounts shall be determined pursuant to section 411.8 based on the rates in effect for the period or periods to which the amounts are allocated. Interest on the contributions required to be paid shall be calculated pursuant to this section as if the contributions were unpaid as of the date the contributions would have been due if the back pay had been paid to the member during the period in which it was due. The requirements of this subsection apply regardless of

whether the back pay is made under a covenant not to sue, compromise settlement, denial of liability, or other agreement between the member and the employer.

3. Contributions unpaid on the date on which they are due and payable as prescribed by the system shall bear interest at the greater of the interest rate assumption adopted by the board of trustees or the rate of interest on the short-term investment fund account of the system's custodial bank for the period the contributions remain unpaid. Interest due pursuant to this section may be waived by the system pursuant to rules adopted by the board. Interest collected pursuant to this section shall be paid into the retirement fund created in section 411.8.

4. If an employer fails to pay contributions or interest as required by this chapter after receiving thirty days' notice of the employer's obligation, the system may maintain a civil action to collect the unpaid contributions and interest from the employer, which action shall be heard as expeditiously as possible. If the system prevails in the civil action to recover unpaid contributions and interest, the court shall require the employer to pay the costs of the action.

Sec. 109. Section 411.22, Code 1999, is amended to read as follows:

411.22 LIABILITY OF THIRD PARTIES — SUBROGATION.

1. If a member receives an injury or dies for which benefits are payable under section 411.6, subsection 3, ~~or 5, 8, or 9~~, or section 411.15, and if the injury or death is caused under circumstances creating a legal liability for damages against a third party other than the retirement system, the retirement system is subrogated to the rights of the member or the member's legal representative<sup>3</sup> beneficiary entitled to receive a death benefit and may maintain an action for damages against the third party for lost earnings and lost earnings capacity. If the retirement system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

a. A sum sufficient to repay the retirement system for the amount of such benefits actually paid by the retirement system up to the time of the entering of the judgment.

b. A sum sufficient to pay the retirement system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits, for which the retirement system is liable, but the sum is not a final adjudication of the future payments which the member is entitled to receive.

c. A sum sufficient to repay the retirement system for the costs and expenses of maintaining the action.

d. Any balance remaining after the repayments provided by paragraphs "a" through "c" shall be paid to the injured member, or the beneficiary under section 411.6, subsection 8 or 9, whichever is applicable.

2. If the system, after receiving written notice of the third-party liability, declines in writing to maintain an action against the third party or fails to maintain an action within one hundred eighty days of receiving written notice of the third-party liability, the member, the member's estate, or the legal representative of the member or the member's estate, may maintain an action for damages against the third party. If ~~a member or a member's legal representative commences~~ such an action is commenced, the plaintiff member, estate, or representative shall serve a copy of the original notice upon the retirement system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the retirement system, and the following rights and duties ensue:

a. The retirement system shall be indemnified out of the recovery of damages to the extent of benefit payments ~~made paid or awarded~~ by the retirement system, with legal interest, except that the plaintiff member's or estate's attorney fees may be first allowed by the district court. For purposes of this paragraph, "benefit payments paid or awarded" means the sum of the following amounts:

(1) The amount of benefits actually paid by the retirement system up to the time of the entering of the judgment.

<sup>3</sup> See chapter 1232, §69 herein

(2) The present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits, for which the retirement system is liable, but the sum is not a final adjudication of the future payments which the member is entitled to receive.

b. The retirement system has a lien on the damage claim against the third party and on any judgment on the damage claim for benefits for which the retirement system is liable. In order to continue and preserve the lien, the retirement system shall file a notice of the lien within thirty days after receiving a copy of the original notice in the office of the clerk of the district court in which the action is filed.

~~2. If a member fails to bring an action for damages against a third party within thirty days after the retirement system requests the member in writing to do so, the retirement system is subrogated to the rights of the member and may maintain the action against the third party, and may recover damages for the injury to the same extent that the member may recover damages for the injury. If the retirement system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:~~

~~a. A sum sufficient to repay the retirement system for the amount of such benefits actually paid by the retirement system up to the time of the entering of the judgment.~~

~~b. A sum sufficient to pay the retirement system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits, for which the retirement system is liable, but the sum is not a final adjudication of the future payments which the member is entitled to receive.~~

~~c. Any balance shall be paid to the member.~~

3. Before a settlement is effective between the retirement system and a third party who is liable for an injury or death, the member or beneficiary must consent in writing to the settlement; and if the settlement is between the member or the member's estate and a third party, the retirement system must consent in writing to the settlement; or on refusal to consent, in either case, the district court in the county in which either the city or the retirement system is located must consent in writing to the settlement.

4. For purposes of subrogation under this section, a payment made to an injured member, a member's estate, or the member's legal representative of the member or member's estate, by or on behalf of a third party or the third party's principal or agent, who is liable for, connected with, or involved in causing the injury to or death of the member, shall be considered paid as damages because the injury or death was caused under circumstances creating a legal liability against the third party, whether the payment is made under a covenant not to sue, compromise settlement, denial of liability, or is otherwise made.

Sec. 110. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. Sections 88, 91, 92, 105, and 108 of this Act, amending section 411.1, subsection 12; section 411.3; section 411.4; section 411.6, by creating new subsection 15; and section 411.11, being deemed of immediate importance, take effect upon enactment and are retroactively applicable to January 1, 1992, and are applicable on and after that date.

Sec. 111. EFFECTIVE DATE. Section 87 of this Act amending section 411.1, subsection 10, and section 94 of this Act, amending section 411.5, subsection 8, take effect July 1, 2001.

#### DIVISION IV JUDICIAL RETIREMENT SYSTEM

Sec. 112. Section 602.9104, subsection 1, Code 1999, is amended to read as follows:

1. A judge to whom this article applies, shall be paid an amount equal to ninety-six ~~ninety-five~~ percent of the basic salary of the judge as set by the general assembly. An amount equal to four five percent of the basic salary of the judge as set by the general assembly is designated as the judge's contribution to the judicial retirement fund, and shall be paid by the state in the manner provided in subsection 2.

Sec. 113. Section 602.9104, subsection 4, paragraph a, subparagraph (2), Code 1999, is amended to read as follows:

(2) "Fully funded status" means that the most recent actuarial valuation reflects that, using the ~~aggregate-cost~~ projected unit credit method in accordance with generally recognized and accepted actuarial principles and practices set forth by the American academy of actuaries, the funded status of the system is at least one hundred percent.

Sec. 114. Section 602.9104, subsection 4, paragraph b, Code 1999, is amended to read as follows:

b. Effective with the fiscal year commencing July 1, 1994, and for each subsequent fiscal year until the system attains fully funded status, based upon the benefits provided for judges through the judicial retirement system as of July 1, 2001, the state shall contribute annually to the judicial retirement fund an amount equal to at least twenty-three and seven-tenths percent of the basic salary of all judges covered under this article. Commencing with the first fiscal year in which the system attains fully funded status, based upon the benefits provide<sup>4</sup> for judges through the judicial retirement system as of July 1, 2001, and for each subsequent fiscal year, the state shall contribute to the judicial retirement fund the required contribution rate. The state's contribution shall be appropriated directly to the judicial retirement fund.

Sec. 115. Section 602.9107, subsection 1, Code 1999, is amended to read as follows:

1. a. The annual annuity of a judge under this system is an amount equal to three percent of the judge's average annual basic salary for the judge's last three years as a judge of one or more of the courts included in this article, multiplied by the judge's years of service as a judge of one or more of the courts for which contributions were made to the system. However, an annual annuity shall not exceed an amount equal to a specified percentage of the basic annual salary which the judge is receiving at the time the judge becomes separated from service. Forfeitures shall not be used to increase the annuities a judge or survivor would otherwise receive under the system.

b. "Specified percentage", for purposes of this section, means as follows:

(1) For judges who retire and receive an annuity prior to July 1, 1998, the specified percentage shall be fifty percent.

(2) For judges who retire and receive an annuity on or after July 1, 1998, but before July 1, 2000, the specified percentage shall be fifty-two percent.

(3) For judges who retire and receive an annuity on or after July 1, 2000, but before July 1, 2001, the specified percentage shall be fifty-six percent.

(4) For judges who retire and receive an annuity on or after July 1, 2001, the specified percentage shall be sixty percent.

Sec. 116. Section 602.9204, Code Supplement 1999, is amended to read as follows:

602.9204 SALARY — ANNUITY OF SENIOR JUDGE AND RETIRED SENIOR JUDGE.

1. A judge who retires on or after July 1, 1994, and who is appointed a senior judge under section 602.9203 shall be paid a salary as determined by the general assembly. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows: The annuity paid to a senior judge or retired senior judge shall be an amount equal to three percent of the basic senior judge salary, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed ~~fifty percent~~ an amount equal to the applicable specified percentage of the basic senior judge salary used in calculating the annuity. However, following the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, the annuity paid to the person shall be an amount equal to three percent of the basic senior judge salary cap, multiplied by the judge's years of

<sup>4</sup> According to enrolled Act



service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except that the annuity shall not exceed ~~fifty percent~~ an amount equal to the applicable specified percentage of the basic senior judge salary cap. A senior judge or retired senior judge shall not receive benefits calculated using a basic senior judge salary established after the twelve-month period in which the senior judge or retired senior judge attains seventy-eight years of age. The state shall provide, regardless of age, to an active senior judge or a senior judge with six years of service as a senior judge and to the judge's spouse, and pay for medical insurance until the judge attains the age of seventy-eight years.

2. As used in this section, unless the context otherwise requires:

a. "Applicable specified percentage" means, for a senior judge or retired senior judge, the specified percentage, as defined in section 602.9107, subsection 1, that applied on the date the judge was separated from full-time service.

~~a. b.~~ "Basic senior judge salary" means the basic annual salary which the judge is receiving at the time the judge becomes separated from full-time service, as would be used in computing an annuity pursuant to section 602.9107 without service as a senior judge, plus seventy-five percent of the escalator.

~~b. c.~~ "Basic senior judge salary cap" means the basic senior judge salary, at the end of the twelve-month period during which the senior judge or retired senior judge attained seventy-eight years of age, of the office in which the person last served as a judge before retirement as a judge or senior judge.

~~c. d.~~ "Escalator" means the difference between the current basic salary, as of the time each payment is made up to and including the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, of the office in which the senior judge last served as a judge before retirement as a judge or senior judge, and the basic annual salary which the judge is receiving at the time the judge becomes separated from full-time service as a judge of one or more of the courts included in this article, as would be used in computing an annuity pursuant to section 602.9107 without service as a senior judge.

#### Sec. 117. JUDICIAL RETIREMENT SYSTEM — LEGISLATIVE INTENT — NOTIFICATION — REPORT.

1. It is the intent of the general assembly that once the judicial retirement system attains fully funded status based upon the benefits provided for judges through July 1, 2001, the employer and employee contribution rates established to fund the judicial retirement system should be adjusted to reflect the ratio of employer and employee contribution rates required under the Iowa public employees' retirement system.

2. The state court administrator shall notify, in writing, the public retirement systems committee established in section 97D.4, when the state court administrator anticipates that the judicial retirement system is within two additional fiscal years of attaining fully funded status as defined in section 602.9104 based upon the benefits provided for judges through July 1, 2001. In addition, the state court administrator shall, following the notification to the committee as provided in this section and in consultation with the Iowa judges association, conduct a study and submit a report, including its findings and recommendations, to the public retirement systems committee prior to the next scheduled meeting of the committee concerning appropriate methods of adequately financing the judicial retirement system once the system reaches fully funded status. In conducting the study, the state court administrator shall consider, and make recommendations concerning, the appropriateness of funding the judicial retirement system by establishing employer and employee contribution rates which shall maintain the actuarial soundness of the system and which shall reflect the intent of the general assembly as contemplated in subsection 1.

Sec. 118. FIRE FIGHTER AND EMERGENCY MEDICAL SERVICES PROVIDER BENEFITS — REPORT. The department of management shall conduct a study concerning the possible implementation of a system to provide retirement benefits to volunteer fire fighters

and emergency medical service personnel and to provide death and survivor benefits, including but not limited to providing for payment of postsecondary education expenses of dependent children, when a volunteer fire fighter or emergency medical service provider dies in the line of duty. The study shall examine what benefits should be provided, if any, as well as possible funding mechanisms to provide any such proposed benefits, including the use of excess insurance premium tax receipts, but excluding the fire and police retirement fund created in section 411.8. In conducting the study, the department shall consult with the department of public safety; the department of personnel; and representatives from the Iowa firemen's association; the Iowa fire chief's association; the Iowa association of professional firefighters; the Iowa association of professional fire chiefs; the Iowa firefighters group; the state fire service and emergency response council, if established by law, or the fire service institute advisory committee established by section 266.46; the Iowa emergency medical services association; and the Iowa league of cities. The department shall submit a report concerning the results of its study, including any findings and recommendations, to the general assembly by January 8, 2001.

Approved April 12, 2000

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## CHAPTER 1078

### RURAL WATER DISTRICT INFRASTRUCTURE FINANCING

H.F. 2027

**AN ACT** relating to the construction or acquisition of infrastructure by rural water districts by providing for financing and exempting certain debt instruments from taxation.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 357A.11, subsection 9, Code 1999, is amended to read as follows:

9. Finance all or part of the cost of the construction or purchase of a project necessary to carry out the purposes for which the district is incorporated or to refinance all or part of the original cost of that project, including, but not limited to, obligations originated by the district as a nonprofit corporation under chapter 504A and assumed by the district reorganized under this chapter. Financing or refinancing carried out under this subsection shall be in accordance with the terms and procedures set forth in the applicable provisions of sections 384.24A, 384.83 through 384.88, 384.92, and 384.93. References in these sections to a city shall be applicable to a rural water district operating under this chapter, and references in that division to a city council shall be applicable to the board of directors of a rural water district. This subsection shall not create a lien against the property of a person who is not a rural water subscriber.

Sec. 2. Section 357A.15, unnumbered paragraph 1, Code 1999, is amended to read as follows:

~~No~~ A district shall not have ~~any~~ power to levy any taxes. ~~Neither the~~ The facilities constructed or otherwise acquired by ~~any a~~ district, including but not limited to ponds, reservoirs, pipelines, wells, check dams, and pumping installations, the revenues obtained by the